

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl. O.P. No. 7671 of 2020

Shanmugam

... Petitioner

-VS-

State by

The Inspector of Police,
DCB, Cuddalore, Cuddalore District.

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioner on bail, pending investigation in Cr. No. 8 of 2020 on the file of the Inspector of Police, DCB, Cuddalore, Cuddalore District.

For Petitioner : Mr. K.V. Muthu Visakan
For Respondent : Mr. K. Prabakar
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 06.03.2020 in Cr. No. 8 of 2020, which was registered by the Respondent for the offence punishable under Sections 465, 467, 468, 471, 420 and 506(i) of the Indian Penal Code, 1860, seeks bail.

2.The ground raised by the learned counsel for the Petitioner is that the Petitioner was arrested on 06.03.2020 and till date final report has not been filed by the Respondent Police, despite the lapse of 109 days and thereby the Petitioner is entitled for bail by default as contemplated under Section 167(2) Cr.PC. The learned counsel for the Petitioner would submit that the Petitioner is prepared to furnish adequate securities for his release on bail.

3.The learned Additional Public Prosecutor would vehemently oppose stating that the Petitioner in the guise of obtaining jobs had collected monies to the tune of Rs.19lakhs and cheated gullible victims. There are several other complaints pending against him. He would submit that the investigation is pending and would oppose for grant of bail. Further, he would submit the final report has not been filed.

4.Heard both sides.

5.The petitioner was arrested on 06.03.2020 and he is in incarceration for 109 days. The Respondent Police have not filed final report till date. As per

mandate of Section 167(2) Cr.PC, the Petitioner is entitled to mandatory bail.

6. The Hon'ble Supreme Court in **Crl. A. No. 452 of 2020 dated 19.06.2020** in the case of ***S.Kasi v. State through the Inspector of Police, Samaynallur Police Station, Madurai District*** while referring to the earlier decisions regarding default bail has held hereunder:

“14.The scheme of Code of Criminal Procedure as noticed above clearly delineates that provisions of Section 167 of Code of Criminal Procedure gives due regard to the personal liberty of a person. Without submission of charge sheet within 60days or 90days as may be applicable, an accused cannot be detained by the Police. The provision gives due recognition to the personal liberty”.

7.In view of the above, the Petitioner is directed to be released on bail subject to the following conditions:

(a) Accordingly, the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the Petitioner has been confined and thereafter on his release;

(b) the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate,

Kattumannarkoil within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the Petitioner shall report before the Respondent Police everyday at 10.30 a.m. for a period of one week and thereafter, report before the Respondent Police on every Monday at 10.30 a.m. until further orders

(e) the Petitioner has to furnish the correct address along with mobile number to the Investigating Officer and to the concerned Court.

(f) the Petitioner shall not commit any offences of similar nature;

(g) the Petitioner shall not abscond either during investigation or trial;

(h) the Petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the

Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala* [(2005)AIR SCW 5560];

(j) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

24.06.2020

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

To

1. The Inspector of Police,
DCB, Cuddalore, Cuddalore District.

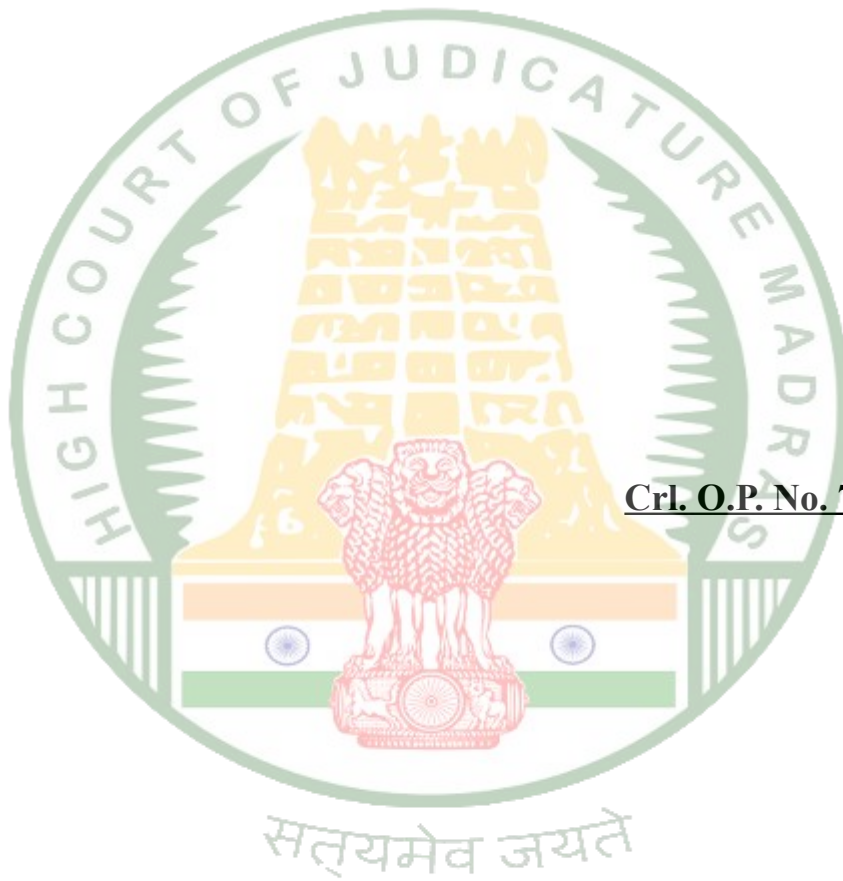
2. The Additional Public Prosecutor,
Madras High Court,
Chennai – 600 104.

3. The Judicial Magistrate,
Kattumannarkoil.

4. The Superintendent of Prison,
Central Jail,
Cuddalore,
Cuddalore District.

A.D. JAGADISH CHANDIRA, J.

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