

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.7607 of 2020

Jalil Hissain

... Petitioner

Vs.

State Represented by

The Inspector of Police,
Kannagi Nagar Police Station,
Chennai.

(Crime.No:289 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.289 of 2020 on the file of the respondent police.

For Petitioner : Mr.N.Shyllappa Kalyan

For Respondent : Mr.Mohammed Riyaz,

Additional Public Prosecutor.

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 14.04.2020 for the offence punishable under Section 392 of IPC in Crime No.289 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that when the defacto complainant was returning from bank without depositing the money since the bank was closed due to a Holiday, three persons surrounded him and had robbed a sum of Rs.40,000/- and a Samsung mobile phone from him. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are room mates. Both are hailing from Tripura and working in Chennai as Coolie. Since there was a dispute between them due to some other issues, the present false complaint has been foisted against the petitioner. He further submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the other two persons

are also the room mates of the defacto complainant as well as the present petitioner. He further submitted that the petitioner is under judicial custody from 14.04.2020 onwards, and hence, he seeks bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that there are totally three accused persons and the petitioner is arrayed as first accused in this crime. According to the complainant, when he was returning from bank without depositing the money since the bank was closed due to holiday, the petitioner and two other accused persons surrounded him and robbed a sum of Rs.40,000/- and a Samsung mobile phone from him and fled away. He further submitted that the entire money has been recovered and no previous case is pending as against this petitioner.

5.It is seen that the petitioner and the defacto complainant are friends as well as room mates. Admittedly, there was a dispute between them and thereafter this present complaint has been made. Further, the entire amount has been recovered and the petitioner has no bad antecedents.

6.Considering the nature of allegations as against the petitioner in the F.I.R., and also that the entire money has been recovered and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison;

(b) thereafter, the petitioner shall execute two local sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 08.06.2020, failing which the bail granted by this Court shall stand dismissed;

(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 daily at 10.30a.m. from 01.06.2020 for a period of three weeks and thereafter as and when required for interrogation;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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];

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

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

-sd/-
15/05/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SESSIONS JUDGE,
KANCHEEPURAM DISTRICT, CHENGALPATTU.

2 THE JUDICIAL MAGISTRATE NO.II,
ALANDUR.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE INSPECTOR OF POLICE,
J-11 KANNAKI NAGAR POLICE STATION,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S P.K.GANESH Advocate on payment of necessary charges

CRL OP.7607/2020

Date :15/05/2020

MK:30/06/2020