

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.8308 of 2020

Mr. Kumaran @ Pushpanathan,
S/o Subramani.

... Petitioner

Vs.

State Rep BY: The Inspector of Police,
Vishnu Kanchi Police Station,
Kanchipuram District.
(Crime No.1811 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
praying, to enlarge the petitioner/accused on bail and release him from
the custody in Crime No.1811 of 2020 pending on the file of the
respondent police.

For Petitioner : Mr.A.Saranraj

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.05.2020 for the offence punishable under Sections 399 of IPC r/w Sec. 25(1)(a) of Arms Act in Crime No.1811 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 20.05.2020, the petitioner along with co-accused had planned to commit dacoity by using knife and wooden logs. Hence, the complaint.

3.The contention of the learned counsel for the petitioner is that the petitioner is suffering from kidney problems, spleen, liver and pancreatic problems, he is taking treatment for the past 2 years for his illness. The petitioner could not stand continuously even for 5 minutes as such the petitioner cannot make preparation for committing dacoity as projected by the prosecution. He further submitted that the petitioner is taking treatment even during the time of remand and therefore seeks bail for the petitioner.

4.The learned Additional Public Prosecutor opposed bail

application stating that the petitioners were caught by the respondent Police, while they were preparing to commit dacoity. The petitioners were in possession of veecharuval, wooden log and knife, for committing the crime. The learned Additional Public Prosecutor admitted that the petitioner is diagnosed to have cyst in the stomach and he is taking treatment for the same.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and also considering the period of incarceration i.e., from 20.05.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) 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 on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lock down and commencement of regular functioning of Court below, 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 as and when required for interrogation;

(e) the petitioner shall not commit any offences of similar nature;

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

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

(h) 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]***.

(i) 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.

11.06.2020

Internet : Yes / No
rm

To

1. The District and Sessions Judge No.II,
Kancheepuram.
2. The Superintendent,
Central Prison, Vellore.
3. The Inspector of Police,
Vishnu Kanchi Police Station,
Kanchipuram District.
(Crime No.1811 of 2020)
4. The Public Prosecutor,
High Court, Madras.

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M.NIRMAL KUMAR, J.

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