

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.06.2020

CORAM

THE HONOURABLE MR. JUSTICE **M.NIRMAL KUMAR**

Crl.O.P.No.8825 of 2020

Joseph Devakumar

... Petitioner

Vs.

State Rep. by

The Inspector of Police,

Thirunindravur Police Station,

Thiruvallur District.

Cr. No.384 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.384 of 2020 on the file of the respondent police.

For Petitioner : Mr.N.Sudharsan

For Respondent : Mr.Iyyappa Raj,

Additional Public Prosecutor

ORDER

The Petitioner, who was arrested and remanded to judicial custody on 09.05.2020 for the alleged offences punishable under Sections 397 and 506 (ii) of IPC in Crime No.384 of 2020, on the file of the respondent police, seeks

bail.

2. The case of the prosecution is that the defacto complainant is running a business in the name and style of Dolphin Technologies at Ambathur. On 08.05.2020, due to Corona Pandemic Lockdown, the defacto complainant and his wife were staying in their house and on that the at about 11.00 p.m. the petitioner along with another person had came and knocked the door of the defacto complainant's house. When the door was opened the door, the defacto complainant was assaulted and at knife point, the accused persons snatched his mobile phone from his pocket and also taken away his two wheeler bearing Regn.No.TN12S 6203 and threatened him with dire consequences. Thereafter, on 09.05.2020 at about 12 noon, the defacto complainant lodged a complaint against the accused persons.

3. The learned Counsel for the petitioner submitted that the petitioner and the defacto complainant are known to each other. The defacto complainant had taken a loan of Rs.2 lakhs from the petitioner. When the petitioner demanded the money, he refused to return the amount and avoided repayment of loan amount and now he has given a false case against the petitioner and another. He further submitted that there is no

explanation for delay in lodging the complaint. He also submitted that A2 has been granted bail by this Court in Crl.O.P.No.7902 of 2020 dated 12.06.2020 and that the petitioner has been suffering incarceration from 09.05.2020. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that there was some money transaction between the defacto complainant and the petitioner. The petitioner has involved in one case or another and he is a history sheeteer in the year 2007. Thereafter, in the year 2009, he had involved in similar offences. Hence, he opposed for the grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and the fact the co-accused has been granted bail by this Court and also considering the period of incarceration undergone by the petitioner from 09.05.2020, 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, 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 lockdown 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 daily at 10.30 a.m. for a period of two weeks and thereafter 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.

17.06.2020

Internet: Yes/No

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To

1. The Principal District and Sessions Judge, Thiruvallur.

2. The Judicial Magistrate No. II,
Thiruvallur.

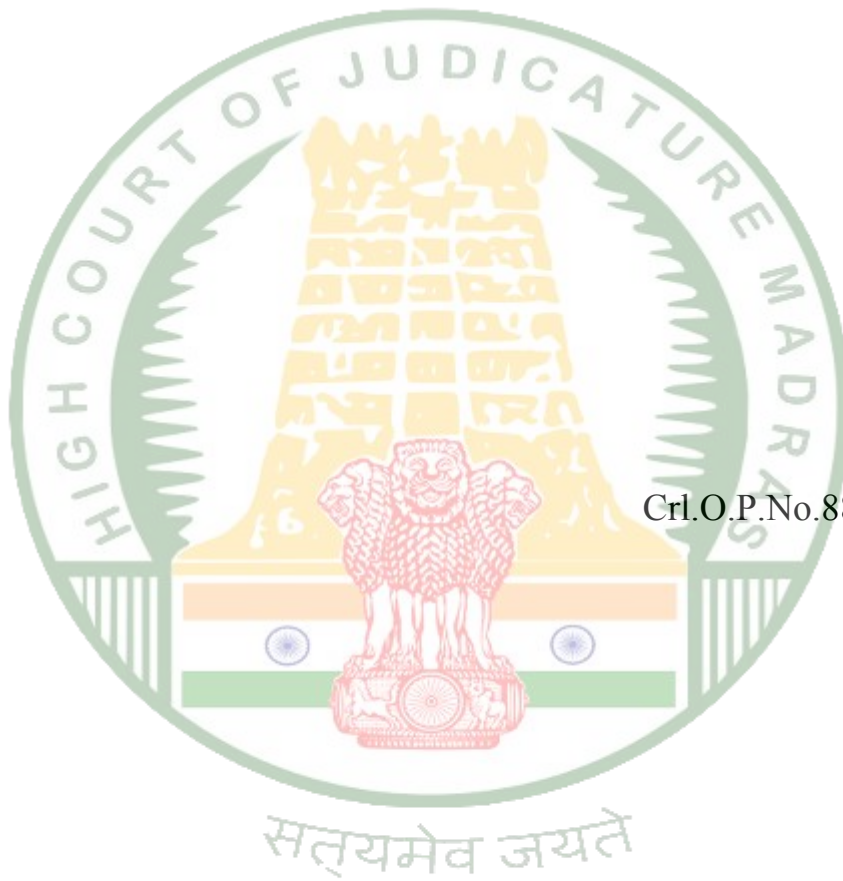
3. The Inspector of Police,
Thirunindravur Police Station,
Thiruvallur District.

4. The Public Prosecutor,
High Court, Madras.

5. The Superintendent,
Central Prison, Puzhal, Chennai.

M.NIRMAL KUMAR, J.

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