

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.06.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.8975 of 2020

D.Senthil Kumar

.. Petitioner

/versus/

State rep. by

The Deputy Superintendent of Police,

CBCID - OCU-I,

Chennai,

Crime No.2 of 2020.

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioner on bail pending investigation in Crime No.2 of 2020 on the file of the Deputy Superintendent of Police/ OCU-I, CBCID, Chennai.

For Petitioner : Mr.K.R.Ramesh Kumar

For Respondent : Mr.K.Prabhakar,
Addl Public Prosecutor

O R D E R

(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.2 of 2020 which was registered by the respondent for the offence punishable under Sections 465, 468, 471 and 120(b) of IPC, seeks bail.

2.The ground raised by the petitioner is that he was arrested on 06.03.2020 and till date final report has not been filed by the respondent/police, despite the lapse of 108days 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 is an accused in the TNPSC scam. The petitioner and other accused conspired together and committed fraud by tampering of records in the selection process in Group IV examination conducted by the Tamil Nadu Public Service Commission. He would submit that the investigation is pending and would oppose grant of bail.

4. Heard both sides.

5. The petitioner was arrested on 06.03.2020 and he is in incarceration for 108days. 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 on his release;

(b) Thereafter, the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned XI Metropolitan Magistrate, Saidapet, Chennai, on or before 22.07.2020, 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 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.

-sd/-
22/06/2020

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 XI METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

5 THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID-OCU-1, CHENNAI.

CC to M/S.K.R.RAMESH KUMAR Advocate on payment of necessary charges

CRL OP.8975/2020

Date :22/06/2020