

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2020

CORAM :

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

CrI.O.P.No.10013 of 2020

D.Vijayakumar

... Petitioner

Vs.

The State rep. by
Inspector of Police
Sulur Police Station
Coimbatore
(Crime No.136 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.136 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr.A.E.Ravi Chandran

For Respondent : Mr.K.Prabakar,
Additional 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 22.02.2020 for the offence punishable under Sections 397 IPC in Crime No.136 of 2020, seeks bail.

2. The case of the prosecution is the petitioner along with other accused attacked the defacto complainant on 16.02.2020 and snatched the mobile phone at knife point. The petitioner was arrested during the course of routine vehicle check up on 22.02.2020, when he attempted to flee away on seeing the police.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner was arrested on 22.02.2020 and he is in custody for more than 132days. The respondent has not filed the final report till date and thereby the petitioner is entitled to mandatory bail by default as per Section 167(2) Cr.PC

4.The learned Additional Public Prosecutor would submit that the petitioner was arrested on 22.02.2020 along with other accused for committing robbery on 15.02.2020. He would further submit that a final report has not been filed.

4. Heard both sides.

5. 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".

6.The petitioner was arrested on 22.02.2020 and he is in incarceration for 132 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.

7. In view of the above and taking into consideration the facts and circumstances, this Court is inclined to grant bail to the petitioner 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 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, Sulur, 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 daily at 10.30 a.m. for a period of two weeks, thereafter on every Monday at 10.30 am. until further orders.

(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 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];

(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.

-sd/-
03/07/2020

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 JUDICIAL MAGISTRATE,
SULUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
SULUR POLICE STATION,
COIMBATORE.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S A.E.RAVICHANDRAN Advocate on payment of necessary charges

CRL OP.10013/2020

Date :03/07/2020

RVR 27/08/2020