

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2020

CORAM :

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

Crl.O.P.No.11584 of 2020

E.Mohanraj
S/o.Ethiraj

... Petitioner

Vs.

State Rep by Inspector of Police
Gangavalli Police Station
Salem District
(Crime No.315 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.315 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 11.06.2020 for the offence punishable under Sections 364 (A) IPC, in Crime No.315 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant one Sudha is that her husband, A1 / Ramesh, Veeran, Murugesan and Jothivel are doing real estate business. On 05.06.2020 at about 6.00 a.m. her husband went along with A1 / Ramesh and Veeran for business purpose but he did not return. On 06.06.2020 at about 8.00 a.m. the defacto complainant was informed by A1 over phone that her husband and said Veeran were kidnapped by him and they were detained in a lodge and he demanded a ransom of Rs.5 lakhs to release her husband otherwise her husband would be done to death. Hence a complaint was lodged by the defacto complainant.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has nothing to do with the said offence. He would further submit that the petitioner is the driver of the car in which the accused are stated to have kidnapped the husband of the defacto complainant. He would further submit that even as per the complaint, it is clear that A1 and the husband of the

defacto complainant are known to each other and that he had taken them in a car and dropped them. Thereafter only the victim was stated to have been illegally detained in the lodge and the petitioner was not aware of the happenings in the lodge. He would further submit that the petitioner has no previous cases against him and the petitioner is in custody from 10.06.2020.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner is the driver of the car in which the defacto complainant's husband was kidnapped by the other accused and thereafter he was detained in a lodge and the other accused demanded a ransom of Rs.5 lakhs from the defacto complainant. He would further submit that there is no previous case against the petitioner.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsel that the petitioner is only the driver of the car and a period of incarceration suffered by the petitioner from 11.06.2020, 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 condition to execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioner has been confined 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 No.II, Attur, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, 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. and 5.30 p.m. 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 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.

-sd/-
04/08/2020

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,
NO.II, ATTUR

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
SALEM DISTRICT.

CC to R.NALLIYAPPAN Advocate on payment of necessary charges

WEB COPY

CRL OP.11584/2020

Date :04/08/2020

RD 28/08/2020