

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2020

CORAM :

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

Crl.O.P.No.12035 of 2020

1. Sakthi Mahendran
2. Manikandan

... Petitioners

Vs.

State Rep by
The Inspector of Police,
Marandahalli Police Station,
Dharmapuri.
(Crime No.986 of 2020)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.986 of 2020 on the file of the respondent police.

For Petitioner : Mr.L.S.M.Hasan Fizal

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

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 14.06.2020 for the offence punishable under Section 365 of Indian Penal Code, 1860, in Crime No.986 of 2020 seek bail.

2. The case of the prosecution as per the defacto complainant Narayanan is that on 12.06.2020 at about 12.30 a.m., his son was kidnapped by five unknown persons in a Xylo Car bearing Registration No.TN-30-AV-1661 and based on his complaint, a case was registered for the offence under Section 365 IPC.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. Since A1 had told that he is going to enact a drama, the petitioners accompanied him and that they took A1 and the alleged victim for a few kilometers and thereafter, they dropped them and returned in their car. Later the petitioners came to know that there was previous enmity between A1 and the defacto complainant since, the defacto complainant was responsible for stopping the marriage of A1 with the girl of his choice. He would further submit that the petitioners have been in judicial custody from 14.06.2020 and they have been suffering incarceration for about two months. He would further submit that the victim has been secured and it is not a case of kidnap for ransom and the petitioners are ready to abide by

any stringent condition and that there is no previous case against the petitioners. Hence, he prays for grant of bail to the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that the petitioners/A2 and A3 along with two other accused kidnapped the son of the defacto complainant. He would further submit that the victim has been secured and the investigation is pending. Hence, he opposed for grant of bail to the petitioners.

5.Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and considering the period of incarceration undergone by the petitioners from 14.06.2020, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute their own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(b) each petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate, Palakode, Dharmapuri., 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 petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders.

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

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

(g)the petitioners 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/-
12/08/2020

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,
PALAKODE, DHARMAPURI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
MARANDAHALLI POLICE STATION,
DHARMAPURI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S.L.S.M.HASAN FIZAL Advocate on payment of necessary charges

CRL OP.12035/2020

Date :12/08/2020

RVR 15/09/2020