

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 08.09.2020
CORAM :
THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No.13960 of 2020

1. D. Sivakumar
S/o. Devaraj

2. Sagaya Daniel @ Daniel
S/o. Prakash

... Petitioners

Vs.

State By
Inspector of Police
H-8, Thiruvottiyur Police Station
Thiruvottiyur, Chennai.
Crime No.4953 of 2020 ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail as against the case pending on the file of the respondent police in Crime No.4953 of 2020.

For Petitioners : Mr. S. Ponnivalavan
For Respondent : Mr. 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 27.07.2020 for the offence punishable under Sections 341, 294(b), 336, 427, 392, 397 and 506(ii) IPC, 1860, in Crime No.4953 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that the petitioners waylaid the defacto complainant while he was on his way to job, assaulted him and robbed Rs.400/- by threatening him with knife. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners have got two previous cases against them and in order to keep them under strings, a false case has been foisted to see that the petitioners are inside the prison during Covid period. Mere reading of FIR would clearly show that the case has been foisted for arresting the petitioners and it is similar to the case registered as a ground case. He would submit that the petitioners have been suffering incarceration from 27.07.2020 and they are prepared to appear before

the respondent police every day. Hence, he seeks for grant of bail to the petitioners.

4.The learned Government Advocate (Criminal Side) would submit that the petitioners are History Sheetted rowdy elements and they have waylaid the defacto complainant, assaulted and robbed Rs.400/- from him. He would further submit that there are two previous cases against them. Hence, he vehemently opposed for grant of bail to the petitioners.

5. Heard the learned Counsels and perused the FIR.

6.Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and also considering the period of incarceration by the petitioners from 27.07.2020, 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;

(b) thereafter, the petitioners shall within a period of two weeks from the date of commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, for a likesum to the satisfaction of the learned Judicial Magistrate, Thiruvottiyur, Chennai, 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 on their release from prison, shall report before the respondent police daily at 10.30 a.m. and 5.30 p.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 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/-

08/09/2020

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,
THIRUVOTTIYUR, CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
H-8 THIRUVOTTIYUR POLICE STATION,
THIRUOTTIYUR, CHENNAI

CC to M/S. S.PONNIVALAVAN Advocate on payment of necessary charges

CRL OP.13960/2020

Date :08/09/2020

RD 11/09/2020

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