

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14156 of 2020

1.Jayakumar @ Rahul
2.Munikrishnan @ Kutty

... Petitioners/Accused 1 & 2

Vs.

The State Represented by,
The Inspector of Police,
Mahalingapuram Police Station,
Coimbatore District.

(Crime No. 895 of 2020) ...Respondent /Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioners on bail in Crime No. 895 of 2020, pending investigation on the file of the respondent police.

For Petitioners : Mr.S.Shakar

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

ORDER

(This case has been heard through video conference)

The petitioners, who were arrested and remanded to the Judicial Custody on 27.07.2020, for the offences punishable under Sections 419, 420 of IPC r/w Section 66(D) of IT Act, in Crime No.895 of 2020, on the file of the respondent police seek bail.

2 The case of the prosecution as per the defacto complainant, who is a Divisional Engineer in Highway Department, Pollachi, is that on 19.07.2020, one Arun who is the friend of the defacto complainant has contacted from his mobile No. 9443228210 and asked for a sum of Rs.2,00,000/- for urgent need. Further, the said Arun had requested to pay the said amount

through Google Pay application and gave two mobile numbers viz., 9629451431 & 984263441 and believing the said Arun, the defacto complainant had deposited an amount of Rs.1,00,000/- to the above said mobile number from their friends account. Further, the said Arun had also requested the remaining sum of Rs.1,00,000/- to Indian Bank Account number, which belongs to one Sathish. Thereafter, on 24.07.2020, the defacto complainant had contacted his friend Arun for confirmation and the said Arun had replied that he had not asked him to pay any amount. Later, he came to know that somebody had misrepresented as Arun and had cheated him. Hence, the complaint.

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. He would submit that the petitioners are the relatives and they are residents of the Cheyyar, Tiruvannamalai District and the second petitioner is licensed contractor with Local Municipality in Tiruvannamalai District. On 19.07.2020, an amount of Rs.50,000/- was credited to each of their Google Pay accounts from various numbers. Since, the petitioners had already applied for loan and were expecting for it, they were under the impression that the loans have been sanctioned and they have received the amount. Whereas, it is found that some person has misrepresented to the defacto complainant and given the petitioners number and thereby, the defacto complainant had sent money to the petitioners number. He would submit that the phones, to which the amounts have been deposited, have also been recovered from the petitioners. He would submit that there is no previous case pending against the petitioners and that the major part of the investigation is over and that the petitioners are in custody for more than 45 days.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioners knowing fully well, have downloaded the application called Phone ID faker and they have spoken as the friend of the defacto complainant, called to one Arun and had made the defacto complainant to deposit the amounts into their Google Pay amount and also to their bank account. He would submit that the investigation is pending, however, he would submit that the two phones have been recovered from the petitioners but the money has not been recovered. Hence, he opposed to grant bail to the petitioners.

5 At this juncture, the learned counsel appearing for the petitioners would submit that without prejudice to their contentions, the petitioners are prepared to deposit a sum of Rs.50,000/- each, to the credit of Crime No. 895/2020 and they are also prepared to furnish the sureties.

6 Taking to consideration the facts and submissions made by the learned counsels, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) each to the credit of crime No.895 of 2020 and on such deposit, the petitioners are ordered to be released on bail on condition to execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Pollachi and on further conditions that;

(b) 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;

(c) the petitioners shall report before respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Monday at 10.30 a.m., until further orders.

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

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

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

7 With the above directions, this Criminal Original Petition is ordered.

-sd/-
11/09/2020

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 NO.II,
POLLACHI
- 2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE DISTRICT [FOR INFORMATION]
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE
- 4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.
- 5 THE INSPECTOR OF POLICE,
MAHALINGAPURAM POLICE STATION,
COIMBATORE DISTRICT.

+1 CC to M/S S.SHAKAR Advocate on payment of necessary charges SR.NO.6226

CRL OP.14156/2020

Date :11/09/2020

GKS:15/09/2020

WEB COPY