

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.Nos.14658 & 14661 of 2020

1.G.Kannan ... Petitioner in Crl.O.P.No.14658 of 2020

2.T.Lakshmiee Khanth ... Petitioner in Crl.O.P.No.14661 of 2020

Vs.

State Represented by,
The Inspector of Police,
B-2, Shevapet Police Station,
Salem, City Police,
Salem.

Crime No.1019 of 2020. ...Respondent

Common Prayer: Criminal Original Petitions filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.1019 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.M.Deivanandam

For Respondent : Mr. M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 506(ii) of IPC in Crime No.1019 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the de-facto complainant one Dinesh is that he is a silversmith and had taken silver from several persons for making silver articles. While so, he was unable to return the silver articles as agreed by him to several persons, thereby, the 1st petitioner offered to protect him from the customers and had demanded jewels from him and had taken 30 kgs of silver and 20 sovereigns of gold jewels from the defacto complainant's wife and cheated them. While, the defacto complainant asked for return all his silver and gold jewels, the petitioners have abused him in filthy language.

3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He would further submit that a false case has been foisted against them. The learned counsel for the petitioners would submit that the petitioners are wholesale dealers in silver articles. The defacto complainant has taken silver from them for making articles and cheated them. While, they asked to return the silver the defacto complainant had issued a cheque for Rs.4,85,000/- dated 22.01.2020, and returned 1.5 kg of silver. Thereafter, he has not repaid any amount till date. The defacto complainant had also cheated several persons. While so, he surrendered before the respondent police in respect of the complaints given by other victims and hence the petitioners were called by the respondent police for enquiry and under the guise of enquiry and the respondents harassed the petitioners to return the silver which was handed over to them. The petitioners despite informing the respondent that they are traders of silver articles, the respondent police made them to stand in the police station for a whole day and they were harassed by them. Therefore, the petitioners had sent a complaint to the commissioner of Police, Salem on 07.06.2020 and again on 25.06.2020. While so, in order to take vengeance. the respondent has obtained a false complainant from the defacto complainant. Originally the complainant was received from Yuvasri, the wife of the defacto complainant on 01.02.2020. He would further submit that the petitioners are genuine traders, who have engaged in the business of silver and gold articles in Salem and therefore they are prepared to give sufficient sureties if they are enlarged on anticipatory bail.

4.The learned Additional Public Prosecutor would vehemently oppose stating that the petitioners are known to the defacto complainant. The defacto complainant is a poor silversmith. The petitioners have taken silver from many persons for making jewels and also received 30 kgs of silver and 20 sovereigns of gold jewels from the defacto complainant and his wife, thereafter, they did not return the silver articles and thereby cheated them.

5.Taking into consideration of the facts and circumstances and also the submissions made by the learned Counsel, this Court is inclined to grant anticipatory bail to petitioners subject to the following conditions;

6.Accordingly, each of the petitioners shall deposit original title deed of immovable property worth of Rs.15 lakhs, to the credit of Crime No.1019 of 2020, within a period of two weeks from the date on which the order copy is made ready, and on such deposit, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before

the learned Judicial Magistrate No.III, Salem, and on condition that each of the petitioners shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] **the petitioners shall report before the respondent Police daily at 10.30 a.m., until further orders.**

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

21/09/2020

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.III,
SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

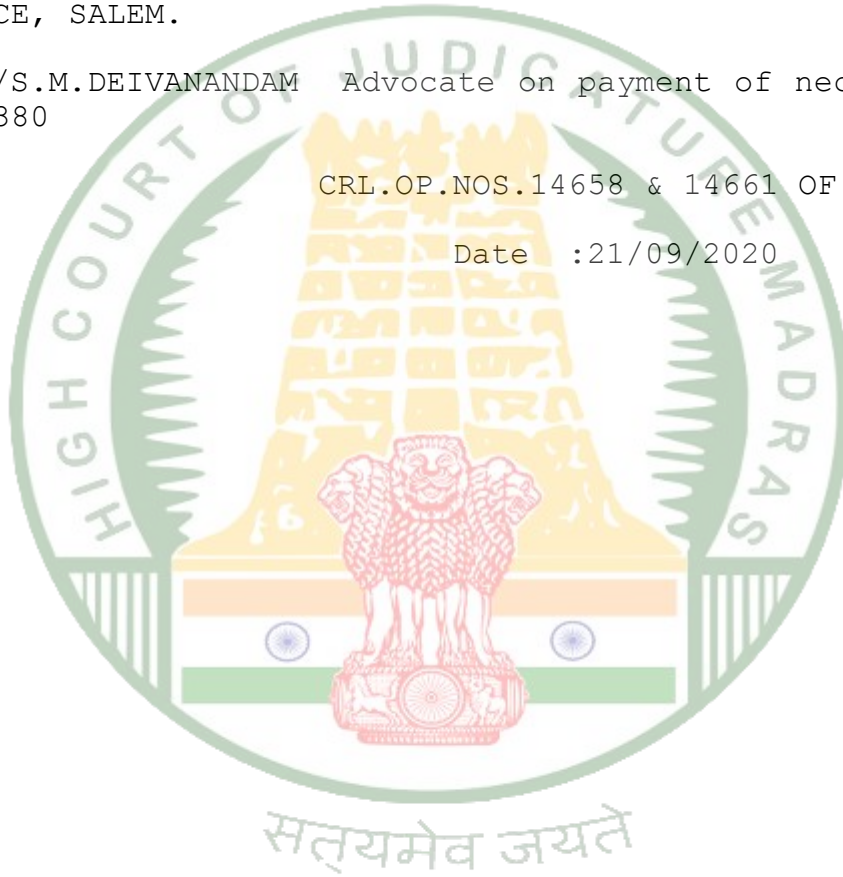
3 THE INSPECTOR OF POLICE,
B-2, SHEVAPET POLICE STATION,
SALEM CITY POLICE, SALEM.

+2CC to M/S.M.DEIVANANDAM Advocate on payment of necessary
charges SR NO.6380

CRL.OP.NOS.14658 & 14661 OF 2020

Date :21/09/2020

MK:06/10/2020



WEB COPY