

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.09.2020

CORAM :

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

CRL.O.P.No.15212 of 2020

1. AMARESH @ AJI
2. ARAVINDHAN

... Petitioners

Vs.

The State Rep. By
Inspector of Police,
Auroville Police Station,
Villupuram District.
(Crime No.1868 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.1868 of 2020 on the file of the respondent police.

For Petitioners : Mr.Swami Subramaniam

For Respondent : Ms.S.Thankira
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 18.08.2020 for the offences punishable under Sections 323, 324, 379, 385 and 506(ii) of IPC read with Section 3(1) of TNPPDL Act in Crime No.1868 of 2020, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Sabib Ali is that he was running a hotel and that on 17.08.2020, he had closed the hotel due to lockdown. The petitioners along with two other accused had entered into his hotel, threatened the Cook and stolen an amount of Rs.30,000/- and it was informed to the defacto complainant by the cook. When the defacto complainant had gone to the hotel, the accused abused and assaulted him and also broken his cell phone and threatened him for money stating that if money is not given, he will be done to death.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case due to business rivalry. He would further submit that a very reading of the F.I.R. would show that it is a foisted case and it is highly unnatural that some person who are stated to have committed theft from a hotel, will wait for the owner to come from his house. He would submit that the petitioners have been suffering incarceration for more than a month from 18.08.2020 and there is no other case against them.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners along with two other accused committed theft of Rs.30,000/- from the defacto complainant's hotel and it was informed by the cook of the hotel. Immediately, when the defacto complainant had gone to the hotel, the accused have abused and assaulted him and also broken his cell phone and caused total loss of Rs.40,000/-. She would further submit that no amount has been recovered.

5. Taking into consideration of the facts and circumstance of the case and the submissions of the learned Counsels and also considering the period of incarceration of the petitioners from 18.08.2020, 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 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, Vanur, 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 the respondent police every day at 10.30 a.m. and 5.30 p.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.R.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

(h) 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/-
28/09/2020

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,
VANUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
AUROVILLE POLICE STATION,
VILLUPURAM DISTRICT.

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

WEB COPY

CRL OP.15212/2020

Date :28/09/2020

cs 30/09/2020