

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2020

CORAM :

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

CRL.O.P.No.15916 of 2020

1.Arjun
2.Pradeep Kumar

... Petitioners/Accused

Vs.

The State represented by: ... Respondent/Complainant
The Inspector of Police,
Pattabiram Police Station,
Thiruvallur District.
(Crime.No.654/2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.654 of 2020 pending on the file of the Inspector of Police, Pattabiram Police Station, Thiruvallur District.

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

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 23.09.2020 for the offences punishable under **Section 392 of IPC later altered to Section 395 of IPC, in Crime No.654 of 2020** on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant Nomonkhan is that he along with his friends is engaged in the business of selling T.V., Cooker and Gas Stove. While so, on 22.09.2020, when they were returning after selling electronic items in Pattabiram, three persons who came in a two wheeler had waylaid them and by threatening them with knife, had robbed an amount of Rs.35,000/- from them. Based on the complaint the case was registered.

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. Infact the defacto complainant is a person from Uttar Pradesh and he had sold duplicate electronic items and cheated the public in the petitioners' locality. Since, it was questioned by the people in the petitioners' locality, a false

complaint has been given against the accused persons as if, they have robbed an amount of Rs.35,000/- from him. He would submit that in fact the said amount of Rs.35,000/- is the refund given by the defacto complainant in respect of the duplicate electronic items sold by him. He would further submit that there is no previous case against the petitioners and that they have been suffering incarceration from 23.09.2020. Hence, he prays for grant of bail to the petitioners.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners along with other accused had waylaid the defacto complainant who is an electronic items seller and robbed an amount of Rs.35,000/- from him. He would further submit that there is no previous case pending against the petitioners. However, the enquiry reveals that the defacto complainant had sold duplicate electronic items.

5 Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioners, 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 that each petition shall execute a 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-II, Tiruvallur**, 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 everyday 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.

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

-sd/-
13/10/2020

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-II,
TIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PATTABIRAM POLICE STATION,
THIRUVALLUR DISTRICT.

5 THE JAILER,
SUB-JAIL, POONAMALLE.

6 THE SUPERINTENDENT
PUZHAL, CHENNAI

+1 CC to M/S.E.PARTHIBAN Advocate on payment of necessary charges SR.NO.6863

CRL OP.15916/2020

Date :13/10/2020

TA-14/10/2020

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