

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.15854 of 2020

1.Govindasamy

... Petitioners

2.Vijayan

Vs.

The State Rep by

.... Respondent

The Inspector of Police,
Bhuvanagiri Police Station,
Cuddalore District.
(Crime No.956 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.956 of 2020, on the file of the respondent police.

For Petitioner : Mr.G.Pugazhenthir

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Cr1. Side)

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 08.09.2020 for the offences punishable under **Sections 294 (b), 353 and 307 IPC and Section 5 and 7(3) of Lotteries Regulation Act, 1998, in Crime No.956 of 2020**, on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 08.09.2020 at about 10.30 hours, the Sub Inspector of Police attached to the respondent police, received an information that the accused were selling three (3) number of lottery tickets. The respondent police along with his party proceeded to the house of the petitioners at about 10.45 hours. At that time, ten (10) unknown persons were standing in front of the house of 1st petitioner to buy lottery tickets and on seeing the police, they ran away from the scene of occurrence and the

petitioners were apprehended and they were found to be in possession of banned lottery tickets.

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 1st petitioner is the grand father of the 2nd petitioner and they were arrested on 08.09.2020 for having sold lottery tickets. He would further submit that this is a second application for bail and the earlier application was dismissed by this Court on 21.09.2020 on the ground that the petitioners were having previous cases. However, taking into consideration, the period of incarceration undergone by the petitioners from 08.09.2020, bail may be granted to the petitioners. He would further submit that co-accused in this case has been granted bail by this Court in Crl.O.P.No.No.14691 of 2020 by order dated 21.09.2020.

4.The learned Government Advocate (Criminal Side) would submit that the petitioners were found to be in possession of banned lottery tickets. He would further submit that as far as the 1st petitioner is concerned, he has got three previous cases to his credit and the 2nd petitioner has got seven previous cases. Hence, he vehemently opposed for grant of bail.

5. At this juncture, the learned Counsel for the petitioner would submit that the petitioners are prepared to stay far away from the place of occurrence.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels and the fact that co-accused in this case has been granted bail by this Court and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to 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 District Munsif cum Judicial Magistrate, Parangipettai, Cuddalore,** 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 stay at Salem and report before the Fairlands Police Station everyday at 10.30 a.m. until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
07/10/2020

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
PARANGIPETTAI, CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
BHUVANAGIRI POLICE STATION,
CUDDALORE DISTRICT.

5 THE JAILER
SUB JAIL, CHIDAMBARAM

6 THE SUPERINTENDENT
CENTRAL PRISON, CUDDALORE

7 THE OFFICER INCHARGE
FAIRLANDS POLICE STATION
SALEM.

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

CRL OP.15854/2020

Date :07/10/2020

TA-08/10/2020



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