

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.Nos.16106, 16109 & 16261 of 2020

Amar Jain ... Petitioner in Crl.O.P.16106/2020

Premanathan ... Petitioner in Crl.O.P.16109/2020

KASIM NAWAZ @ KASIM NAWAZ GANI ... Petitioner in Crl.O.P.16261/2020

Vs.

State: ... Respondent in all Crl.O.Ps.

The Inspector of Police,
N-2, Kasimedu Police Station,
Chennai.
(Cr. No.2271 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.2271 of 2020 pending on the file of the Inspector of Police, N2-Kasimedu Police Station, Chennai.

For Petitioners: Mr.G.Mohana Krishnan
(in Crl.O.P.Nos.16106 & 16109 of 2020)

For Petitioner : Mr.T.Muruganantham
(in Crl.O.P.No.16261 of 2020)

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)
(in all Crl.O.Ps)

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 12.09.2020 and 13.09.2020 for the offence punishable under **Sections 419, 464, 465, 466, 468, 471 and 420 of IPC** in Crime No.2271 of 2020 on the file of the respondent police,

2.The case of the prosecution as per the defacto complainant Monisha is that during July 2020, when she had gone to Harshitha Mobile Shop to purchase a Vodafone sim card, she had left her Aadhaar Card in that shop. Thereafter, some persons have purchased several sim cards by misusing her Aadhar card and used the same for illegal activities. Hence, the complaint.

3.The learned counsel appearing for the petitioners in CrI.O.P.Nos.16106 & 16109 of 2020 would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the only allegation against the petitioners is that they purchased sim cards by using the Aadhar card of the defacto complainant and handed over the same to various persons. He would submit that as per the allegation, the petitioners are stated to have given the sim cards to other persons and that they have not indulged in any other offence. He would further submit that there is no previous case against the petitioners and they were arrested and remanded to judicial custody on 12.09.2020 and that they have been suffering incarceration for more than one month. Hence, he prays for grant of bail to the petitioners.

4.The learned counsel appearing for the petitioner in CrI.O.P.No.16261 of 2020 would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner is the owner of the shop and his employee has committed the offence and that the petitioner is no way connected with the alleged offence. He would further submit that the petitioner has been suffering incarceration from 13.09.2020. Hence, he prays for grant of bail to the petitioner.

5. The respondent has filed a counter wherein, it is stated that during July 2020, the defacto complainant had gone to Harshitha Mobile Shop, Kasimed and purchased a Vodaphone sim card (Mobile No.8939998807). At that time, she had missed her original Aadhaar Card in the said shop. Later, when the respondent police had enquired the defacto complainant, she came to know that by misusing her Aadhaar card, some persons have purchased many sim cards and also involved in illegal activities. During investigation, it came to light that A1 in this case, by misusing the Aadhar card of the defacto complainant has purchased several sim cars and handed over the same to the criminals for using illegal activities. Further, A1 in this case has colluded with the other accused persons and by using the sim card obtained by forgery, kidnapped a business man and demanded an amount of Rs. 2.5 Crores in respect of which, a case in Crime No.956 of 2020 has been registered in N-3 Police Station and the same is pending.

6.The learned Additional Public Prosecutor would submit that though the act of obtaining sim cards by forgery and handing over the same to other persons may seem to be a small offence, the accused have done it in an organized manner and the sim cards have been handed over to the criminals for using in illegal activities. Hence, he vehemently opposed for grant of bail to the petitioners.

7. At this juncture, the learned Counsel for the petitioners would submit that the main accused in this case has been granted bail by the District Sessions Court and the only allegation against the petitioners is that they have obtained sim cards based on the fabricated Aadhaar Card and handed over the same to several other persons. He would further submit that the petitioners have no connection with the accused who are said to have used the sim cards for illegal activities. He would further submit that the petitioners are prepared to abide by any stringent condition that may be imposed on them and that there is no other case pending against the petitioners.

8. Taking into consideration the above facts and circumstances of the case and the submissions made by the learned counsels and the fact that the main accused/A1 in this case has been granted bail by the lower Court 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 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 XVI Metropolitan Magistrate Court, George Town, Chennai.** 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. 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.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.

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

-sd/-

16/10/2020

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 XVI METROPOLITAN MAGISTRATE COURT,
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
N-2, KASIMEDU POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL.

+2 CC to M/S.G.MOHANA KRISHNAN Advocate on payment of
necessary charges SR.NO.6952 6953

CRL.O.P.Nos.16106, 16109 & 16261 of 2020

Date :16/10/2020

TA-19/10/2020

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