

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17683 of 2020

Arunkumar

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Pattabiram Police Station
Tiruvallur
(Crime No.654 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.654 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.S.Vijayakumar

For Respondent : Mr.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.09.2020, for the offences punishable under Section 392 IPC, in Crime No.654 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Nomonkhan is that he along with his friends had engaged in the business of selling T.V., Cooker and Gas Stove. While so, on 22.09.2020, when they were returning after selling of 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, a case was registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. In fact the defacto complainant is a person from Uttar Pradesh and he had sold duplicate electronic items and cheated the public in the petitioner's locality. Since, it was questioned by the

people in the petitioner's locality, a false complaint has been given against the petitioner along with other 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 submit that the co-accused in this case have been granted by this Court in Crl.O.P.No.16105/2020, dated 12.10.2020 and Crl.O.P.No.15916 of 2020, dated 13.10.2020. He would further submit that there is no previous case pending against the petitioner and that he has been suffering incarceration from 23.09.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner along with other accused had waylaid the defacto complainant, who is an electronic items seller, robbed an amount of Rs.35,000/- from him and out of this amount, only a sum of Rs.2,500/- was recovered. He would further submit that there is no previous case pending against the petitioner, however, the enquiry reveals that the defacto complainant had sold duplicate electronic items.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. Considering the above facts and circumstances of the case and the period of incarceration by the petitioner from 23.09.2020 and also considering the fact that the co-accused in this case have been granted bail by this Court, this Court is inclined to grant bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only), to the credit of Crime No.654 of 2020 and on such deposit, the petitioner is ordered to be released on bail on his executing 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, Ambattur and on further conditions that:

[a] 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 petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only), to the credit of Crime No. 654 of 2020, before executing the bond.

[c] the final order in respect of the said deposit shall be passed by the learned trial Judge at the conclusion of trial.

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[g] the investigating officer shall scrupulously ensure that the petitioner complies with all conditions hereby imposed and shall report breach of conditions, if any promptly to the learned Magistrate/Trial Court.

[h] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as held by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala reported in (2005)AIR SCW 5560.

[i] If the accused thereafter absconds, (I) a fresh FIR can be registered under Section 229A IPC. (II) the amount deposited as per clause (b) shall be forfeited and the same shall be remitted to the Government/victim.

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

-sd/-
23/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सतयमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
AMBATTUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

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4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
PATTABIRAM POLICE STATION,
TIRUVALLUR.

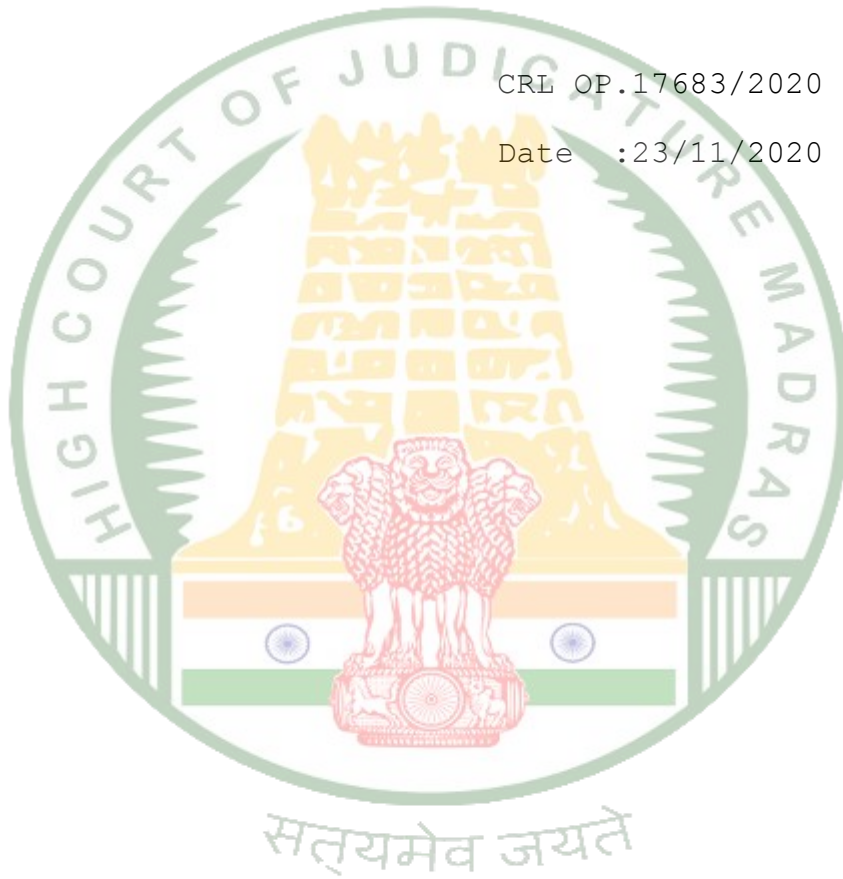
+1 CC to M/S.K.ASHOK KUMAR
charges SR.No.7753

Advocate on payment of necessary

CRL OP.17683/2020

Date :23/11/2020

cs 27/11/2020



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