

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE M.NIRMAL KUMAR

CRL.O.P.Nos.18782, 17908, 17476, & 18116 of 2020

Sanjay Kumar @ Sanjay

... Petitioner in
Crl.O.P.18782/2020

1.S.Puttaraj
2.G.K.Kiran @ Bavan

... Petitioners in
Crl.O.P.17908/2020

Nagaraj

... Petitioner in
Crl.O.P.17476/2020

1.Boomika
2.Prasanth

... Petitioners in
Crl.O.P.18116/2020

-Vs.-

State: Inspector of Police
SIPCOT Police Station,
Krishnagiri District.
(Crime No.617 of 2020)

... Respondent in
all Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail pending investigation in Crime No.617 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.P.Saravanan in Crl.OP.18782 & 17476

Mr.R.Thirumoorthy in Crl.OP.18116/2020

Mr.J.Pradeep in Crl.OP.17908 /2020

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

COMMON ORDER

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 10.09.2020 and 07.09.2020 for the offences punishable under Sections 394 @ 395, 397 IPC in Crime No.617 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 02.09.2020 at about 3:00 pm, when the defacto complainant was returning from the fish market, Hosur to her house, A1 / Boomika in this case, who is the neighbor of the defacto complainant, opened the grill gate of the defacto complainant's house and entered into the house by leaving the grill gate opened wantonly, following her, four unidentified persons barged into the house of the defacto complainant, tied her hands and also closing her mouth, had taken away 8 ½ sovereigns of gold jewellery (5 sovereigns chain, 1 sovereign chain, ½ sovereign ring, 1 sovereign stud and ¼ sovereign droppings of ear stud) and cell phones. The total property worth Rs.1,75,000/-. Thereafter, they have also pushed the defacto complainant, A1 / Boomika and children of the defacto complainant inside the room and locked it outside and left the scene of occurrence. The neighbours, on hearing the cry of the defacto complaint, opened the door and informed the defacto complainant's husband and had taken them to the private hospital, thereby, a complaint came to be registered.

3. The contention of the petitioners in CrI.O.P No.18116 of 2020 is that A1 is the neighbour of the defacto complainant and in fact, it could be seen from the F.I.R that she was also a victim who was also pushed inside the room along with defacto complainant and the accused had also taken away her 2 grams of gold stud and mobile phone from her and she is falsely implicated in this case.

4. The contention of A7/ Prashant is that as per the complaint, only four persons entered the house of the defacto complainant and committed the offence. Further, there is no incriminating materials to show that some of the accused were standing outside the house of the defacto complainant as guards to other accused and hence he has been falsely implicated in this case. He would further submit that both A1 / Boomika and A7 / Prasanth are hailing from the same place and the investigation has been completed. Further their identity is not in dispute, since both of them are from the same place and the entire property has been recovered, prays for grant of bail. He would further submit that major part of this investigation has been completed and charge sheet is yet to be filed.

5. The contention of the petitioner in CrI.O.P.No.18782 of 2020, A2/ Sanjay Kumar is that, the petitioner is working at Hosur where A1 / Boomika was also working, hence, apart from the above, the petitioner does not have anything to do with the alleged occurrence. The petitioner further submitted that being the friend of A1 he has been falsely implicated.

6. The contention of the petitioners in CrI.O.P.No. 17908 of 2020, A3/ Puttaraj and A4/ Kiran is that they are the friends of A1 who had come along with A1 to various places to participate in the offences as alleged by the prosecution. The further contention is that since they happened to be the friend of A1, they have been

falsely implicated in this case. He would further submit that A4 in this case is a college student and he is pursuing his M.A. Degree.

7. The contention of the petitioner in CrI.O.P.No.17476 of 2020, A5/ Nagaraj is that he is the friend of A1 and has been falsely implicated in this case.

8. The learned Government Advocate (CrI. Side) would vehemently oppose stating that in this case, except A1 and A7, all other accused hail from neighboring state of Karnataka and that they had no reason or explanation for visiting A1 on the date of occurrence. He would further submit that A2 is the friend of A1 and they both worked in a same factory situated at Hosur and the other accused viz. A3 to A7 except A6, they are all friends of A1 which is proved by their own submissions. Further in this case A1 had acted as a decoy and kept the grill gate open to facilitate other accused to enter into the house of the defacto complainant to commit the offence. He would further submit that only four accused entered into the house and investigation revealed that some more accused participates were standing as guard for other accused to commit the offence. A1 went one step ahead and projected herself as a victim to lose her two grams of gold ear stud and her mobile phone to make others believe that she is not the reason or cause for the dacoity. During the investigation and confession, the fact came to light that A1 is the prime accused in this case and other accused have acted as per her instructions. He would further submit that test identification parade conducted and all the accused identified by the witnesses and further CCTV footages collected from the scene of occurrence and in and around the place, which would conclusive prove the petitioners' active involvement in the said offence. He would further submit that apart from the defacto complainant, the accused have also threatened the two young children of the defacto complainant by brandishing knife. Child witnesses to the occurrence had clearly identified the accused and gave statement about the involvement of the accused in this case. He would further submit that the investigation completed and charge sheet filed within the stipulated time before the learned Judicial Magistrate No-2, Hosur, and the same was returned to them for rectification of certain defects and the same rectified and re-submitted to the Trial Judge, since the offence is serious in nature, Higher Official of Police Department and Deputy Director of the prosecution are taking all effective steps to re-present the returned charge sheet.

9. Considering the submissions made by the learned Government Advocate (CrI. Side), this court is not inclined to entertain the bail petitions of the petitioners. It is also made clear that the observation has been made only for the dismissal of the bail petitions and it will not stand in the way of the petitioners to obtain statutory bail under Section 167(2) Cr.P.C. If they are otherwise entitled.

10. With the above observations, these Criminal Original Petitions stand dismissed.

-sd/-

02/12/2020

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,
NO.II, HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, HOSUR.

6 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

7 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, SALEM.

CC to M/S M.P.SARAVANAN Advocate on payment of necessary charges

CC to M/S R.Thirumoorthy Advocate on payment of necessary charges

CC to J.Pradeep Advocate on payment of necessary charges

CRL OP.18782,17908,17476&
18116 /2020

Date :02/12/2020