

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

CORAM :

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

CRL.O.P.No.17224 of 2020

Hassan Mohamed

... Petitioner

Vs.

THE STATE REPRESENTED BY ITS Respondent
The Inspector of Police,
N2, Kasimedu Police Station,
Chennai-13.
(Crime No.2271 of 2020)

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.2271 of 2020 on the file of the respondent police.

For Petitioner : Mr.T.Sivagnanasambandan

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

ORDER

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.09.2020 for the offences punishable under Section 419, 464, 465, 466, 468, 471 & 420 of IPC, in Crime No.2271 of 2020 on the file of the respondent police, seeks bail.

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 petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the only allegation against the petitioner is that he had 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

petitioner along with other accused is 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 petitioner and he was arrested and remanded to judicial custody on 12.09.2020 and that he has been suffering incarceration for more than 50 days.. Hence, he prays for grant of bail to the petitioner.

5.The respondent has filed a counter, wherein, it has been stated that during July 2020, the defacto complainant had gone to Harshitha Mobile Shop, Kasimed and purchased a Vodafone 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 had purchased several sim cards and handed over the same to the criminals for 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 Government Advocate (Crl. Side) 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 the illegal activities. Hence, he vehemently opposed for grant of bail to the petitioner.

7. At this juncture, the learned Counsel for the petitioner would submit that the main accused in this case has been granted bail by the District Sessions Court and the only allegation against the petitioner is that he along with other accused had obtained sim cards based on the Aadhaar Card of the defacto complainant and handed over the same to several other persons. He would further submit that the petitioner has no connection with the accused who are said to have used the sim cards for illegal activities. He would further submit that the petitioner is prepared to abide by any stringent condition that may be imposed on him and that there is no other cases pending against the petitioner. He would further submit that the co-accused who are also similarly placed like him in this case have been granted bail by this Court in Crl.O,P.Nos.16106, 16109 & 16299 of 2020 dated 16.10.2020.

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 petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is 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 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 petitioner shall report before the respondent police everyday at 10.30 a.m. and 5.30 p.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner 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 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 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/-

03/11/2020

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
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-13.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI @ CHENNAI-1.

+1 CC to M/S.T.SIVAGNANASAMBANDAN Advocate on payment of
necessary charges SR.NO.7261

CRL OP.17224/2020

Date :03/11/2020

TA-04/11/2020



WEB COPY