

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

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

CRL.O.P.No.17382 of 2020

V.Kannan

... Petitioner

Vs.

State rep. by:

Inspector of Police,

Gengavalli Police Station,

Gengavalli, Salem District.

(Crime No.496 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused-1 on bail concerned in Crime No.496 of 2020 on the file of the Inspector of Police, Gengavalli Police Station, Gengavalli, Salem District.

For Petitioner : Mr.N.Kannan

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

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 10.10.2020 for the offence punishable under Section 364 of IPC, in Crime No.496 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz., Poornavalli, is that she and her husband belong to Elayankudi Taluk, Sivagangai District and her husband was rearing goats within the jurisdictional limits of the respondent police. Whiles, on 17.10.2020, at about 06.00 a.m., the first accused along with four other accused had come to their house and kidnapped her husband and thereafter, when she had searched for her husband, she was unable to find her husband and thereby, she lodged the complaint before the respondent police on 08.10.2020.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case due to money dispute. He would submit that the petitioner and the alleged victim belonging to the same village and the victim had borrowed a huge amount from the petitioner and thereafter, the victim absconded and when the petitioner demanded money a false complaint has been given against the petitioner as if, he had kidnapped the victim. He would submit that the defacto

complainant has given a false complaint to avoid repayment of money to the petitioner. He would submit that the petitioner was arrested on 10.10.2020 and he is suffering incarceration for more than 40 days. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner and defacto complainant's husband belong to the same village and that the defacto complainant's husband was rearing goats within the jurisdictional limits of the respondent police. While so, the petitioner along with other accused had come the defacto complainant's house and kidnapped her husband due to money dispute and also demanded money from her. He would further submit that the investigation is pending. Hence, he opposed to grant bail to the petitioner.

5.Heard both the learned counsels and perused the materials placed on record.

6.Taking into consideration the facts and submissions made by the learned counsels and the petitioner is in judicial custody from 10.10.2020, 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 Judicial Magistrate No.II, Attur 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 respondent police everyday at 10.30 a.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;

(h) 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];

(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

19/11/2020

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 JUDICIAL MAGISTRATE,
NO.II, ATTUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
GENGAVALI POLICE STATION,
GENGAVALI, SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

CC to M/S.N.KANNAN Advocate on payment of necessary charges

CRL OP.17382/2020

Date :19/11/2020

RVR 20/11/2020

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