

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.17498 & 17663 of 2020

1.B.Saravanan

2.Y.Sheikh Abdul Kadhar @ Sheikh

... Petitioners in
Crl.O.P.No.17498/2020

Ameer Basha

... Petitioner in
Crl.O.P.No.17663/2020

Vs.

State Rep.by its:-

The Inspector of Police,

N-3 Muthialpet Police Station,

Muthialpet, Chennai.

Crime No.956 of 2020

... Respondent in both cases

Common Prayer: Criminal Original Petitions are filed under Section 439 Cr.P.C. to enlarge the petitioners on bail pending investigation in N-3 Crime No.956 of 2020 on the file of the Inspector of Police,N-3 Muthialpet Station, Muthialpet, Chennai.

In all the Criminal Original Petitions
For Petitioners : Mr.S.Ponnivalavan
(In Crl.O.P.No.17498/2020)

Mr.L.Infant Dinesh
(In Crl.O.P.No.17663/2020)

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

COMMON ORDER

(These cases have been heard through video conference)

In Crl.O.P.No.17498 of 2020, the petitioners were arrested and remanded to judicial custody on 09.09.2020 for the offences punishable under Section 419, 364(A), 324, 342, 464, 465, 468, 392 r/w 395 of IPC and Section 25(1A) Arms Act 1959 @ under Section 414,

419, 364(A), 324, 342, 464, 465, 468, 392, 395, 107 r/w 120B of IPC and Section 25(1A) Arms Act 1959 in Crime No.956 of 2020 on the file of the respondent police, seek bail.

In CrI.O.P.No.17663 of 2020, the petitioner who was arrested and remanded to judicial custody on 02.09.2020 for the offences punishable under Sections 419, 364A, 324, 342, 464, 465, 468, 392 r/w 395 of IPC, in Crime No.956 of 2020, on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Diwan Akbar is that on 17.08.2020 at about 1.15. a.m. while he was returning from his friend's place, five persons posing themselves to be Officers from N.I.A had kidnapped him and kept him in illegal custody and also assaulted him. Thereafter, they had taken an amount of Rs.2 Crores through his brother Thameemun Ansari as ransom and after receipt of the amount, they released the victim. The respondent during the course of investigation found that totally 11 accused have involved in the case and all the accused were arrested.

3.The learned counsel appearing for the petitioners in CrI.O.P.No.17498 of 2020 would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners are not aware of the kidnapping of the defacto complainant or the demand or ransom by the other accused. He would further submit that the petitioners were used by the main accused to meet the brother of the defacto complainant to receive the amount of Rs.2 Crores from him near Albert theatre. He would submit that the petitioners acted as a errand men to collect the money without knowing the offence committed by the main accused and they have innocently gone to the place at Albert Theatre and collected the money from the brother of the defacto complainant. He would further submit that the petitioners have no previous case and the main accused/A2 to A6 have been detained under Act 14. He would submit that the petitioners have been suffering incarceration for more than 70 days from 09.09.2020 and that they are prepared to abide by any stringent condition. Hence, he prays for grant of bail.

3.The learned counsel appearing for the petitioner in CrI.O.P.No.17663 of 2020 would submit that the petitioner is arrayed as A11 in this case and the only allegation against the petitioner is that he has harboured A1 and A2 after the occurrence and the ransom amount was shared between the other accused in the petitioner's house and that the petitioner was not aware of the earlier occurrence of kidnapping. He would submit that the petitioner innocently allowed A1 and A2 to stay in his house and admittedly A1 and A2 shared the booty with the other accused in his house. Whereas, the petitioner innocently believed that the amount shared was relating to some business transaction done by them and that he was not aware that the amount has been obtained as ransom. He would further submit that the petitioner has been suffering incarceration from 02.09.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners are the associates of the main accused and insofar as the petitioners in Crl.O.P.No.17498 of 2020 is concerned, they have collected the ransom amount of Rs.2 Crore from the brother of the defacto complainant near Albert Theatre. He would further submit that CCTV footage proves the presence of the petitioners. Further, the petitioners have been identified by the brother of the defacto complainant. Insofar the petitioner in Crl.O.P.No.17663 of 2020 is concerned, he has harboured A1 and A2 after the occurrence of kidnapping and that the ransom amount was also shared between them in the house of the petitioner. He would further submit that A1 is absconding and A2 to A6 have been detained under Act 14.

5. Heard the learned Counsel on either side. Perused the materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and the overt-act attributed to the petitioners and also considering 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 XVI Metropolitan Magistrate, 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. 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.

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 METROPOLITAN MAGISTRATE NO.XVI,
GEORGE TOWN, CHENNAI.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI.

5 THE INSPECTOR OF POLICE,
N-3 MUTHIAPET POLICE STATION,
MUTHIAPET, CHENNAI.

+1CC to M/S.S.PONNIVALAVAN Advocate on payment of necessary charges SR NO.7640

+1CC to M/S.L.Infant Dinesh Advocate on payment of necessary charges SR NO.7682

CRL.O.P.NOS.17498 & 17663 OF 2020

Date :19/11/2020

MK:20/11/2020