

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2020

CORAM :

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

CRL.O.P.Nos.19667 & 19706 of 2020

M.Paratharathy

... Petitioner in both Crl.OPs.

-Vs.-

The Sub Inspector of Police, ... Respondent in both Crl.OPs.

Mangalam Police Station,

Thiruvannamalai District.

(Crime Nos.1976 & 1975 of 2020)

Common Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime Nos.1976 & 1975 of 2020 on the file of the respondent police.

For Petitioner : Ms.L.Poompavai

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

COMMON ORDER

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 05.08.2020 for the offence punishable under Sections 392 r/w 394 and 397 of IPC in Crime Nos.1976 & 1975 of 2020, seeks bail.

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2. The case of the prosecution as per the *de facto* complainant is that on 05.08.2020, when the *de facto* complainant was standing near the shop at 4.00hrs, the petitioner along with his friend came in a two wheeler and took a knife and kept it on the *de facto* complainant's neck and robbed VIVO V15 PRO cell phone and cash of Rs.1100/-.

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3. The case of the prosecution as per the *de facto* complainant is that on 05.08.2020, when the *de facto* complainant was traveling in a two wheeler, the petitioner along with his friend came in a

two wheeler and suddenly stopped the *de facto* complainant, took a knife and kept it on the *de facto* complainant's neck and robbed VIVO V12 PRO cell phone from his shirt pocket.

4. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and false cases were registered against the petitioner based on which, the petitioner was detained under Act 14 of 1982 pursuant to the order passed by the District Collector, Tiruvannamalai, in D.O.No.86 of 2020 dated 20.08.2020. Subsequently, based on the representation given by the petitioner, the Government revoked the detention order by order dated 16.10.2020. She would further submit that the petitioner was arrested in both the cases on 05.08.2020 and he has been in judicial custody for more than 100 days and that the respondent have not filed the final report till date. Thereby, the petitioner is entitled for statutory bail under Section 167(2) of Cr.P.C. Hence, she prays for grant of bail to the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner was arrested in both the cases on 05.08.2020 for having committed robbery of cash and cellphone and later, he was detained under Act 14 of 1982. Subsequently, the detention order was revoked by the Government. He would further submit that the respondent have not filed the final report till date.

6. Taking into consideration the facts and submissions made by the learned counsels and the fact that the petitioner has been in judicial custody for more than 100 days from 05.08.2020 and that the respondent have not filed the final report till date, 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-II, Tiruvannamalai, 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 on his release from prison shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, every Monday 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

(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.

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

-sd/-

11/12/2020

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 - 600104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE
MANGALAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+2 CC to M/S.L.POOMPAVAI Advocate on payment of necessary charges SR.NO.8128, 8129

CRL OP.19667 & 19706/2020

Date :11/12/2020

TA-14/12/2020