

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18507 of 2020

Gaana Sathish @ Sathishkumar

... Petitioner

Vs.

State Rep.by
The Inspector of Police
E-5, Sholavaram Police Station
Tiruvallur
(Crime No.4923 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.4923 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.M.Mohamed Yasin

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 14.09.2020, for the offences punishable under Section 294(b), 384, 506(ii) IPC @ 294(b), 384, 506(ii) IPC 307 IPC, in Crime No.4923 of 2020 on the file of the respondent police, seeks bail.

2.The petitioner / A2 along with two others, who are his friends had demanded protection money and rowdy mamool from the defacto complainant, who was running a fast food centre. When the defacto complainant refused to pay the same, he was taken to the back side of the fast food centre and placed a knife on the neck and threatened him. When the defacto complainant raised alarm, public gathered to apprehend the accused person, on seeing them, the accused ran away from the scene of occurrence.

3.The learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case. He would further submit that the petitioner was arrested on 14.09.2020 and he is in judicial custody for the past 72 days. He would further submit that the co-accused in this case are absconding and the

respondent police have not taken any steps to secure them. He would further submit that there is no injury on the defacto complainant and the offence under Section 307 IPC has been included only to detain the petitioner for a prolonged period.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that there are totally three accused in this case and the other two accused are the close associates of the petitioner. The petitioner along with his associates collected protection money and rowdy mamool from the defacto complainant who is running a fast food centre, when the same was refused by the defacto complainant, the accused had taken him to the back side of the shop and threatened him with knife by placing it on his neck. When the defacto complainant raised alarm, public gathered to apprehend the accused, on seeing them, they escaped from the scene of occurrence. He would further submit that the petitioner has indulged in similar activities and the petitioner has got four previous cases to his credit and all the cases taken place recently. He would further submit that A1 and A3 are still absconding.

5. Heard both sides and perused the material placed on record.

6. Taking into consideration of the facts and submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioner for the past 72 days and that there is no injury caused to the defacto complainant, 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 likesum to the satisfaction of the learned Judicial Magistrate, Ponneri, 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. and 5.00 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
24/11/2020

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,
PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
E5 SHOLAVARAM POLICE STATION,
TIRUVALLUR DISTRICT.

+1 CC to M/S.M.MOHAMED YASIN Advocate on payment of necessary charges SR.No.7773

CRL OP.18507/2020

Date :24/11/2020