

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.No.18611 of 2020

1.Simjith
2.Sasikanth

... Petitioners

Vs.

State Rep by
Inspector of Police,
Anamalai P.S.
Coimbatore District
(Crime No.505 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.505 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.A.Nowfal

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

O R D E R

(The cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 14.09.2020 for the offence punishable under Section 406 IPC later altered into Sections 120B, 399, 406 IPC and Section 25(1) (1B) (a), 27(1), 28 of Arms Act, in Crime No.505 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the de facto complainant Muthu is that he had sold a Resort property and got an amount of Rs.1,72,50,000/- and he had taken the money from the bank and handed over to A1 stating to keep it in a safe custody and will receive it on the next day. Whereas, on the next day, when the defacto complainant had contacted A1, his phone was switched off and he was found missing. Based on the complaint given by the defacto complainant, the case was originally registered for an offence under Section 406 IPC. Thereafter, a special team was formed and the respondent searched for the accused. On 14.09.2020 at about 10 a.m., when the respondent engaged in a vehicle check up, they intercepted a car bearing Registration TN 48A 6869 and enquired the inmates.

Whereas, the inmates did not give proper answers and the police arrested them for enquiry and it came to light that they committed the offence along with A1 and based on their confessions, 3 Pistols, Air Gun, Pellets and cash of Rs.3 lakhs were also recovered from them. Thereafter, the case was altered to one under Sections 120B, 399, 406 IPC and Section 25(1) (1B)(a), 27(1), 28 of Arms Act on 21.09.2020. Insofar as these petitioners are concerned, one knife and cash of Rs.50,000/- from each of the petitioner has been recovered.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that admittedly it is a case where the defacto complainant is alleged to have handed over the cash to A1 and the petitioners are no way connected with the offence and that they were arrested only on the confession of A1 and that the petitioners have been in judicial custody for more than 85 days from 14.09.2020. He would further submit that the investigation has been completed. Hence, he prays for grant of bail.

4. The respondent has filed a details counter.

5. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioners are the associate of the main accused Anoopkumar. The said Anoopkumar had received a sum of Rs.1,72,50,000/- from the defacto complainant and cheated him. After receiving the amount, A1-Anoopkumar has purchased BMW, Fortuner and EON Cars and jewels weighing 428 grams and sofar, Rs.40.55 lakhs, jewels worth Rs.25 lakhs and cars worth Rs.60 lakhs have been recovered and the remaining properties are yet to be identified. He would submit that the accused belong to a gang which has connection with Ravipoojari, an international Gangster.

6. Heard the learned Counsels and perused the materials placed on record.

7. At this juncture, the learned counsel for the petitioner would submit that the petitioners have no previous case against them and that they are prepared to abide any stringent conditions.

8. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioner 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 out of which, one surety shall be a blood / relative surety, each for a like sum to the satisfaction of the learned Judicial Magistrate-I, Pollachi, 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 on his release from prison 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.

9. With the above directions, this Criminal Original Petition stands 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 - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, POLLACHI.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ANNAMALAI POLICE STATION,
COIMBATORE DISTRICT.

+1 CC to M/S.A.NOWFAL Advocate on payment of necessary charges
SR.No.8132

CRL OP.18611/2020

Date :11/12/2020

cs 14/12/2020