

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 18616 of 2020

Sakthivel

... Petitioner/1st Accused

Vs.

The State represented by,
The Sub-Inspector of Police,
Kandhikuppam Police Station,
Krishnagiri District.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 545 of 2020, on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.T.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 25.10.2020 for the offences punishable under Sections 341, 392 of IPC, subsequently, altered into one under Sections 341, 397 of IPC, in Crime No. 545 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz.,Gnanasekar, who is a lorry driver by profession, is that on 05.10.2020 at about 04.00 p.m., while he was driving a Eicher Lorry bearing registration No. KA-26-7456 from Bangalore to Chennai via Krishnagiri, near IRI Polytechnic College, Settipally, one white colour unregistered car intercepted his lorry and some unknown persons have come out from that car and had taken away the lorry, which was carrying goods, which worth about Rs.3.25 lakhs. For which, the defacto complainant had lodged a complaint to the respondent police. Initially, the respondent police had registered a case for the offence under Sections,341 & 392 of IPC and subsequently altered the same into one under Sections 341 & 397 of IPC.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and that he is a II year Polytechnic student. He would submit that the petitioner was arrested on 14.10.2020, in Crime Nos. 1577 of 2020 & 1582 of 2020, which were registered for the offence under Sections 392, 397 of IPC and that he has also been enlarged on bail granted by the learned Sessions Judge, Dharmapuri District in Crl.M.P.Nos.1265 of 2020 & 1261 of 2020, dated

05.11.2020. He would submit that the lorry has been seized by the respondent police and the goods were also recovered. He would further submit that the petitioner has been suffering incarceration from 14.10.2020 and as far as this case is concerned, he has been suffering incarceration from 25.10.2020. Hence, he prays to grant bail to the petitioner. He would submit that as per the bail orders passed by the learned Sessions Judge, Dharmapuri District, the petitioner has to appear before the respondent police regularly for a period of two weeks.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on 05.10.2020 at about 04.00 p.m., while the defacto complainant was driving a Lorry bearing registration No. KA-26-7456 from Bangalore to Chennai via Krishnagiri, near IRI Polytechnic College, Settipally, the petitioner along with other accused had waylaid the lorry which is carrying goods, worth of Rs.3.25 lakhs, and had taken away the same and thereby, the case was registered in Crime No.545 of 2020 for the offence under Sections 341, 392 of IPC and subsequently, altered the offence under Sections 341 & 397 of IPC. Based on the complaint, enquiry was conducted and the lorry along with goods was recovered on the same day and found that no goods were missing or taken away. He would further submit that earlier the petitioner had arrested on 25.10.2020, for the similar nature of offence and has also been released on bail in by the learned Sessions Judge, in Crl.M.P.Nos.1265 of 2020 & 1261 of 2020, dated 05.11.2020. Hence, he opposed to grant bail to the petitioner.

5.Taking into consideration the facts and submissions made by the learned counsels, petitioner is 19 years old and he is a II year Diploma student and also considering the fact that the petitioner is in judicial custody from 25.10.2020, 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.I, Krishnagiri 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 after compliance of the condition imposed by the lower court, shall report before respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

(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.

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

-sd/-

30/11/2020

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.I, KRISHNAGIRI

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE
KANDHIKUPPAM POLICE STATION,
KRISHNAGIRI DISTRICT

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges

CRL OP.18616/2020

Date :30/11/2020

RVR 02/12/2020