

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR
Crl.O.P.No. 18819 of 2020

Abdul Wahab Saharani

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
P4 Basin Bridge Police Station,
Chennai.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 777 of 2020, on the file of the respondent police.

For Petitioner : Mr.R.Thiagarajan

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 15.11.2020 for the offences punishable under Section 395 of IPC in Crime No. 777 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 22.09.2020 at 2 p.m., the petitioner along with other accused had come in a motor bike, waylaid the defacto complainant and snatched his cash bag, which contains an amount of Rs.2,00,000/-. Hence, the complaint.

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. He would submit that the co-accused persons in this case have been enlarged on bail in Crl.M.P.No.10792 of 2020 (Prabh, Arun Pandi and Gopalakrishnan) on 05.11.2020, in Crl.M.P.No.11147 of 2020 (Kannan @ Veeranna) on 20.11.2020 and Crl.M.P.No.11557 of 2020 (Sadham Ussain) on 20.11.2020. He would further submit that there is no bad antecedents to the credit of the petitioner. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that there are totally eight accused in this case and the petitioner is arrayed as A8. He would submit that on 22.09.2020 at 2 p.m., the accused persons had waylaid the defacto complainant and snatched his cash bag, which contains an amount of Rs.2,00,000/-. He would submit that a sum of Rs.24,960/- has been recovered from the accused persons and that the charge sheet has also been filed. He would further submit that except A2 & A7, all the other accused have been enlarged on bail and that as far as this petitioner is concerned, there is no previous case pending against the petitioner. However, he opposed to grant bail to the petitioner.

5.Taking into consideration of the facts and submissions made by the learned counsels and the petitioner is in judicial custody from 15.11.2020, 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 X Metropolitan Magistrate, Egmore, 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 petitioner shall report before 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 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/-
01/12/2020

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 METROPOLITAN MAGISTRATE NO.X,
EGMORE, CHENNAI.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
P-4, BASIN BRIDGE POLICE STATION,
CHENNAI.

+1CC to M/S.R. THIAGARAJAN Advocate on payment of necessary charges SR NO.7845

CRL OP.18819/2020

Date : 01/12/2020

MK:02/12/2020