

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE V.SIVAGNANAM

CRL.O.P.No.18936 of 2020

1. Chandhankumar
2. Mustafa Ansari
3. Nawalsah
4. Chandhankumar

... Petitioners

Vs.

The State, represented by
Inspector of Police,
Perumanallur Police Station,
Thiruppur District.
(Crime No.470 of 2019)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with C.C.No.101 of 2020 pending Trial on the file of Judicial Magistrate, Avinashi.

For Petitioner : Mr.R.Sankarasubbu

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

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 29.11.2019 for the offence punishable under Sections 392 and 109 of I.P.C, in Crime No.470 of 2019 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 06.10.2019 at about 10.30 p.m., the petitioners have waylaid the defacto complainant and snatched his mobile phone.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this. He would further submit that in order to put fetters on the petitioners another case in Crime No.469 of 2020 has been registered against the petitioners and that the petitioners have been suffering incarceration for more than one year from 29.11.2019. He would further submit that charge sheet has been filed

and the case has been taken on file in C.C.No.101 of 2020 on the file of the Judicial Magistrate, Avinashi. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioners belong to Bihar and that they have five others cases to their credits including offence under Arms Act. He would further submit that the alleged cell phone has been recovered from A5.

5.Heard the learned Counsels and perused the F.I.R.

6. Overall consideration of the facts, the nature of accusation, the nature of offences, the materials in support of the accusation and the circumstances of the case and the period of detention of the petitioners in the judicial custody, this Court is inclined to grant bail to the petitioners 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.25,000/- (Rupees Twenty Five Thousand Only) with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Avinashi**, 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 shall appear before the respondent police every day 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 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 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.

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

-sd/-
30/12/2020

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,
AVINASHI.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUPPUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERUMANALLUR POLICE STATION,
TIRUPPUR DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S.R.SANKARASUBBU Advocate on payment of necessary charges

CRL OP.18936/2020

Date : 30/12/2020

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MN-31/12/2020