

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.19014 of 2020

RISHI @ RISHIKESH

... Petitioner

Vs.

State Rep by:-

The Inspector of Police,
Maduravoyal Police Station,
Chennai-95.

(Crime No.1357 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.1357 of 2020 on the file of the respondent police.

For Petitioner : Mr.P.Bharath

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 29.08.2020 for the offence punishable under Section 451, 397 of IPC, in Crime No.1357 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant Pavithra is that she is running a Ayurvedic Spa in the name of Glory Ayurvedic Spa and that on 28.08.2020 while she was in Spa along with her staff, five persons trespassed into the Spa and threatened her with knife and robbed 3½ sovereign of gold chain, when she raised an alarm, the people around came inside and on seeing the people, they have attempted to run away. Two persons were apprehended and they have disclosed their names as Rishikesh and Saravanan and that they have also disclosed the other three persons, viz., Abishek, Santhosh and Kishore.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the police have foisted the case against the petitioner and the petitioner is alleged to be arrested on 28.08.2020 and remanded to judicial custody on 29.08.2020. He would submit that the petitioner is in custody for more than 90 days and till date, the respondent has not filed the final report and thereby, the petitioner is entitled to bail under Section 167(2) of Cr.P.C.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner along with four other persons trespassed into the Glory Ayurvedic Spa run by the de facto complainant, by threatening with knife robbed 3½ sovereigns of gold chain. He would submit that the petitioner has 10 previous cases against him, however, the respondent has not filed the final report till date.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that the period of incarceration suffered by the petitioner and that the respondent has not filed charge sheet till date, 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 [out of which one surety should be a blood surety either father or mother of the petitioner] each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Poonamalli, 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 the prison, shall report before the respondent Police everyday at 10.30 a.m. and 5.30.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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
16/12/2020

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.II,
POONAMALLI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MADURAVOYAL POLICE STATION,
CHENNAI-600 095.

CC to M/S.P.BHARATH Advocate on payment of necessary charges

CRL OP.19014/2020

Date :16/12/2020