

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.19446 of 2020

P.Deva @ Devaraj

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
Kandhikuppam Police Station,
Krishnagiri Taluk and District.
(Crime No.545 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.545 of 2020 on the file of the respondent.

For Petitioner : Mr.C.Palanisamy

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 28.10.2020 for the offences punishable under Sections 341 and 392 of IPC subsequently, altered into one under Sections 341 and 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 de facto complainant viz., Gnanasekar, who is a lorry driver by profession, is that on 05.10.2020 at about 4.00 p.m., while he was driving a Eicher Lorry bearing registration No.KA-26-7456 from Bangalore to Chennai viz 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 hat taken away from the lorry, which was carrying goods, which worth about Rs.3.25 lakhs. For which, the de facto complainant had lodged a complaint to the respondent police. Initially, the respondent police had registered a case for the offence under Sections 341 and 392 of IPC and subsequently altered the same into one under Sections 341 and 397 of IPC. Hence, he seeks for bail.

3. The learned counsel appearing for the petitioner would submit that the petitioner is A2 in this case. He 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 petitioner was arrested on 28.10.2020, in Crime Nos.1577 of 2020 & 1582 of 2020,

which were registered for the offence under Sections 392, 395, 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.1 of 1264 of 2020 & 1263 of 2020, dated 26.11.2020. 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 main accused A1 in this case who has been similarly placed as that of the petitioner has been granted bail by this Court vide order dated 30.11.2020, in Crl.O.P.No.18616 of 2020. He would further submit that the petitioner has been suffering incarceration from 28.10.2020. Hence, he prays to grant bail to the petitioner.

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 28.10.2020, 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. Heard the learned Counsel on either side. Perused the materials placed on record.

6. Taking into consideration the facts and submissions made by the learned counsels, and also considering the fact that the petitioner is in judicial custody from 28.10.2020, 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 Court, 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 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;

(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.

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

-sd/-

14/12/2020

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 COURT, KRISHNAGIRI

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
KANDHIKUPPAM POLICE STATION,
KRISHNAGIRI TAKUK AND DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, DHARMAPURI

CC to M/S C. PALANISAMY Advocate on payment of necessary charges Sr.8166

CRL OP.19446/2020

Date :14/12/2020

RVR 15/12/2020

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