

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

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

CRL.O.P.No.19471 of 2020

1. Vijay
2. Ellappan

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
R-4, Soundarapandiyanar Angadi Police Station,
Chennai.
(Crime No.680 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with Crime No.680 of 2020 on the file of the respondent.

For Petitioners : Mr.S.Sathish Rajan

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

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 06.10.2020 for the offence punishable under Section 395 of IPC, in Crime No.680 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Noorul Huck is that he is residing at T.Nagar and that on 30.09.2020 at 4.00 p.m. when he was in the first floor and his wife and children were in the ground floor, his wife's relative Mohideen, who was staying with them for sometime, had opened the gate and allowed the other accused inside and the accused after entering into the house had threatened the inmates of the house and had stolen and committed dacoity of 120 sovereigns of gold jewellery, Rs.95,000/-, costly watch and also taken their Honda Car from the house. The defacto complainant, suspecting that his relative Mohideen would have done the offence, had given a complaint before the respondent police.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the petitioners are known to one Mahesh, who is a friend of Mohideen. The said Mahesh called them that there was a property dispute, hence, the

petitioners have gone to the house of the defacto complainant and other than that, they did not know anything about the occurrence. He would further submit that A1 had committed the theft and he had absconded and the petitioners were arrested based on the CCTV footage. He would further submit that the petitioners are the permanent resident and they are prepared to abide by any stringent conditions that to be imposed on them by this Court.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners are the associates of one Mohideen, who is the relative of the defacto complainant. He would further submit that when the defacto complainant and his family members were affected by Covid and in quarantine, the accused have entered into the house of the defacto complainant and robbed 220 sovereigns of gold jewellery, Rs.95,000/-, costly watch and Honda Car. He would further submit that the petitioners were arrested on 06.10.2020. He would further submit that as far as the 1st petitioner is concerned, he has got one previous case registered for the offence under Section 307 IPC. He would further submit that investigation is pending and the main accused yet to be apprehended.

5.Heard the learned Counsel on either side. Perused F.I.R. and other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioners, 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 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 XVII Metropolitan Magistrate, Saidapet, 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 petitioners on their release from prison shall report before the respondent police everyday at 10.30 a.m. and 5.30 p.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 petitioners 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 is ordered.

-sd/-

17/12/2020

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 XVII METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
R-4, SOUNDARAPANDIYANAR ANGADI POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

CC to M/S.S.SATHISH RAJAN Advocate on payment of necessary charges

CRL OP.19471/2020

Date :17/12/2020

RVR 18/12/2020