

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2020

CORAM :

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

CRL.O.P.No.19691 of 2020

Yaswanthraj @ Allappa

... Petitioner

Vs.

State rep. by

... Respondent

The Inspector of Police,
B-1 North Beach Police Station,
Chennai.

(Crime No.334 of 2019)

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.334 of 2019 on the file of the respondent police.

For Petitioner : Mr.S.N.A.Hussainy

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 29.10.2020 for the offence punishable **(*)under Sections 448, 342, 392, 395 r/w 397, 120B and 506(ii) of IPC**, in Crime No.334 of 2019, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Syed Mohammed Rizwan is that he is working as an Accountant in a Cinema Finance Company near Angappa Naicken Street, Chennai. While so, on 24.08.2019 at about 8.45 p.m., four persons had trespassed into his office, assaulted him and threatened him with knife and robbed a sum of Rs.20 lakhs from his office and after his owner's instruction, he preferred a police complaint on 04.09.2019.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case based on the confession of the co-accused. he would further submit that the alleged occurrence is said to have

been taken place on 24.08.2019. Whereas, the complaint has been given only after 10 days on 04.09.2019 thereby creating doubt in the prosecution case. Even as per the prosecution, majority of accused have been arrested and an amount of Rs.17 lakhs has been recovered from the arrested accused. He would submit that the prosecution claims that two other accused are absconding and the petitioner was arrested on 29.10.2020. However, no recovery has been made from the petitioner and no ID Parade has been conducted and only on suspicion since, the petitioner has previous case, he has been implicated in this case. He would further submit that similarly placed co-accused have been granted bail. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner is a notorious person against whom there are several cases pending. He would submit that the petitioner along with other accused committed robbery of Rs.20 lakhs from the defacto complainant's office. He would submit that some of the accused have been arrested and an amount of Rs.17 lakhs has been recovered from them. Insofar as this petitioner is concerned, no recovery has been made and some of the arrested accused have been granted bail and that two other accused are absconding.

5. Heard the learned Counsels and perused the materials placed on record.

6. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that co-accused in this case have been granted bail and also considering the period of incarceration suffered by the petitioner, 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 Metropolitan Magistrate No.VII, George Town, Chennai-1**, 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;

1. 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.

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

-sd/-

22/12/2020

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.

[*] Amended as per order of this Court dated 11/01/2021 made in CRL.MP.NO.81 OF 2021. in CRL.O.P.NO.19691 OF 2020.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.VII, GEORGE TOWN, CHENNAI-1.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
B-1, NORTH BEACH POLICE STATION,
CHENNAI.

5 THE JAILER,
SUB JAIL, SAIDAPET, CHENNAI.

+1 CC to M/S.S.N.A.HUSSAINY Advocate on payment of necessary charges SR.NO.1399 (CS)

CRL OP.19691/2020

Date :22/12/2020

TA-23/12/2020