

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2020

CORAM :

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

CRL.O.P.No.19959 of 2020

1.KARUPPASAMY

... Petitioners

2.MADASAMY

Vs.

State Rep.by

... Respondent

Sub Inspector of Police,
Pallipattu Police Station,
Thiruvallur District.
(Crime No.1665 of 2020)

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioners on bail in Crime No.1665 of 2020 on the file of the respondent police.

For Petitioners : Mr.E.Kannadasan

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 25.10.2020 for the offence punishable under Section 41(1) (d) of Cr.P.C., 1973, and Section 102 of IPC and subsequently, altered into 457(2), 380(2) of IPC in Crime No.1665 of 2020, seek bail.

2. The case of the prosecution as per the *de facto* complainant Surendara Kumar, Inspector of Police, Pallipattu Police Station is that on 24.10.2020, while they were on usual routine check up, three persons ran away on seeing the police, they were caught hold them and on search, they were found in possession of three idols, when they were enquired, they did not give a proper reply and thereby, a case was registered under Section 41(1)(d) of Cr.P.C, 1973 and Section 102 of IPC and later, the case was altered into Sections 457 (2) and 380(2) of IPC.

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 submit that there is no complaint from any circle with regard to the theft of idols. He would further submit that there is no other case pending against the petitioners. He would submit that the petitioners were arrested on 24.10.2020 and they are in custody for almost 52 days. He would submit that the petitioners are prepared to furnish one blood surety and one surety from the native place. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioners were found in illegal possession of three idols and that they have not given any proper reply for being in possession of the same, based on that, originally the case was registered under Section 41(1)(d) of Cr.P.C, 1973 and Section 102 of IPC and later, the case was altered into one under Sections 457(2) and 380(2) of IPC. He would submit that the steps are being taken to transfer the case to the file of Idol Wing.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and also considering 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 separate 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 and another one from the permanent resident of their native] each for a like sum to the satisfaction of the learned Additional Chief Judicial Magistrate, Kumbakonam [Special Court for Idol theft cases, Kumbakonam], 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 learned Additional Chief Judicial Magistrate, Kumbakonam [Special Court for Idol theft cases, Kumbakonam] every day at 10.30 a.m. until further orders;

(d) the petitioners shall report before the Idol Wing Team Police every day at 5.30.p.m until further orders;

(e) the petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(h) 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];

(i) 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/-
15/12/2020

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 ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
KUMBAKONAM (SPECIAL COURT FOR IDOL THEFT CASES, KUMBAKONAM)

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUB INSPECTOR OF POLICE,
PALLIPATTU POLICE STATION,
THIRUVALLUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

5 THE OFFICER INCHARGE,
IDOL WING TEAM POLICE,
KUMBAKONAM.

+1 CC to M/S.E.KANNADASAN Advocate on payment of necessary charges SR.NO.8203

CRL OP.19959/2020

Date :15/12/2020

TA-16/12/2020