

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

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

CRL.O.P.No.20191 of 2020

1. Sundramoorthy
2. Manikandan

... Petitioners

Vs.

State, rep. by
The Inspector of Police,
NALLANPILLAIPETRAL Police Station,
Villupuram District.
(Crime No.1385 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.1385 of 2020 on the file of the respondent police.

For Petitioners : Mr.A.E.Lakshmi Narayanan

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 05.10.2020 for the offence punishable under Sections 395 & 397 of IPC, in Crime No.1385 of 2020, on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant viz. Pachaiyappan is that he is running a Pawn broker shop at Palapadi Village and that on 17.09.2020 he closed his shop at night and that at about 6.00 a.m. the owner of the building one Rajendran informed him that some thieves have broken the shutter of his pawn shop at 1.30 a.m. and they have taken the locker away and he also stated that when thieves attempted to remove the locker, he heard the noise and followed them, at that time, the thieves who are unknown to him, have assaulted him and also threatened him with dire consequences. Based on the complaint, a case was registered.

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 names of the petitioners do not find place in the F.I.R. and based on the confession of the main accused, they were arrested in this case. He would further submit that subsequent to the arrest in this case, the petitioners were arrested on P.T. Warrant in Crime No.20 of 2020, registered by the Ananthapuram Police Station for the offence under Section 397 IPC and they have been granted statutory bail in that case. He would further submit that the petitioners are in custody for the past 72 days and apart from these two cases, the petitioners do not have any other cases against them.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that the name of the 1st petitioner is Sathyamoorthy and not Sundramoorthy. He would further submit that the petitioners along with other five accused broke open the pawn shop of the defacto complainant and had taken away the locker to the teak plantation. When the petitioners have attempted to break the locker, the owner of the building one Rajendran heard the noise and went near the accused, thereby, the accused threatened him and also attempted to commit murder and they have broke open the pawn shop of the defacto complainant and taken a sum of Rs.10,000/- from the locker.

5.At this juncture, the learned counsel for the petitioners would submit that he would withdraw the petition in respect of the 1st petitioner. He would reiterate that the 2nd petitioner was implicated based on the confession statement of the 1st accused from whom Rs.10,000/- recovery has been made. He would further submit that the 2nd petitioner has been granted statutory bail in the other case and apart from these two cases, there are no other cases pending against him.

6.Taking into consideration of the fact that the learned counsel is withdrawing this petition in respect of the 1st petitioner, this bail application stands dismissed as withdrawn as against the 1st petitioner.

7.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 2nd petitioner, this Court is inclined to grant bail to the 2nd petitioners subject to the following conditions:

(a) Accordingly, the 2nd 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, Gingee, 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 2nd petitioner on his release from prison shall report before the learned respondent police everyday at 10.30 a.m. and 5.30 p.m. until further orders.

(d) the 2nd petitioner shall not commit any offences of similar nature;

(e) the 2nd petitioner shall not abscond either during investigation or trial;

(f) the 2nd 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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.

8. With the above directions, this Criminal Original Petition in respect of the 1st petitioner stands dismissed as withdrawn. This Criminal Original Petition in respect of the 2nd petitioner stands allowed.

-sd/-
18/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

TO

1 THE JUDICIAL MAGISTRATE,
GINGEE.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

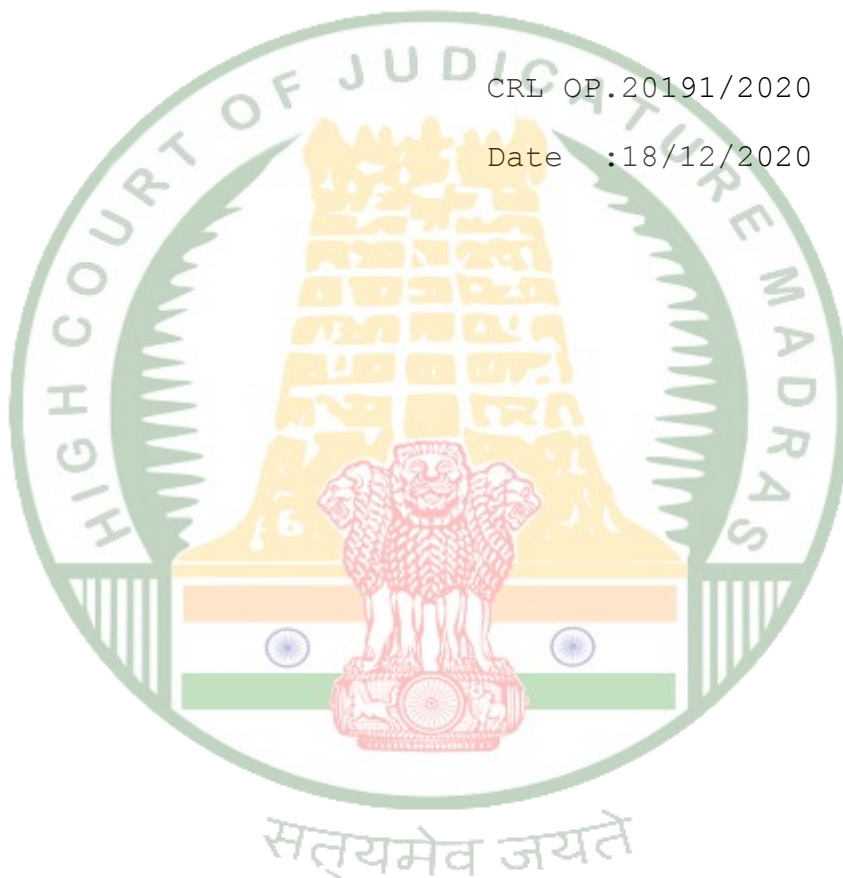
5 THE INSPECTOR OF POLICE,
NALLANPILLAIPETRAL POLICE STATION,
VILLUPURAM DISTRICT.

+1 CC to A.E.LAKSHMI NARAYANAN Advocate on payment of necessary
charges SR.No.8419

CRL OP.20191/2020

Date :18/12/2020

cs 21/12/2020



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