

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

CRL.O.P.Nos.20386 & 20394 of 2020

MADHAN @ MADHANKUMAR

... Petitioner in both Crl.O.Ps

Vs.

State rep. by its

The Inspector of Police,
Anakkavoor Police Station,
Thiruvannamalai District.

(Crime Nos.19 & 23 of 2020)

... Respondent in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime Nos.19 & 23 of 2020 on the file of the respondent police.

For Petitioner in

both Crl.O.Ps : Mr.G.Punniakoti

For Respondent in

both Crl.O.Ps : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

C O M M O N O R D E R

(These cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.01.2020 for the offence punishable under Section 379 IPC, in Crime No.19 of 2020 and for the offence under Sections 294(b), 392, 397 IPC, in Crime No.23 of 2020 on the file of the respondent police, seeks bail.

2. Crl.O.P.No.20386 of 2020 : The case of the prosecution as per the defacto complainant Thayammal is that on 11.01.2020 at about 11.30 a.m., while she was going in two wheeler bearing Regn.No.TN19 B 5313, two persons came in a two wheeler wearing helmets and had snatched Mangalsutra and a chain worn by her weighting 5½ sovereigns and also dashed her vehicle due to which, she fell down and sustained injuries.

3. In Crl.O.P.No.20394 of 2020: The case of the prosecution as per the defacto complainant Elumalai is that on 13.01.2020 at about 5.30 p.m., while he was walking along the road, two persons had come in a Yamaha FZ two wheeler and one person who was slim and sitting behind, threatened the defacto complainant with knife and robbed Rs.2000/- from him. When the defacto complainant raised alarm, the public came there and that the accused threatened them with knife.

Thereby, traffic was paralyzed and based on the complaint given by the defacto complainant, the case was registered for offence under Section 294(b), 392, 397 IPC.

4. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the petitioner was arrested on 12.01.2020 and thereafter, the petitioner was clamped with the detention order passed by the District Collector, Thiruvannamalai on 28.02.2020 and subsequently, he filed H.C.P.No.548 of 2020 and the detention order was set aside by this Court by order dated 23.09.2020. He would further submit that the petitioner has been in judicial custody from 12.01.2020 and despite the lapse of statutory period of 60 days and 90 days in each case, the respondent have not filed the final report and thereby, entitling the petitioner for statutory bail under Section 167(2) Cr.P.C. He would submit that the petitioner has also been falsely implicated in Crime No.17 of 2020 and Crime No.21 of 2020. Hence, he prays for grant of bail.

5. The learned Government Advocate (Criminal Side) would vehemently oppose stating that the petitioner is a habitual offender against whom there are 60 previous cases pending before various police stations.

6. At this juncture, the learned Counsel for the petitioner would submit that in the first case the identity of the petitioner is not mentioned and the second case is foisted for the purpose for detaining the petitioner under Act 14. He would submit that though the respondent has stated that there are 60 cases against the petitioner, despite the statutory period, the respondent has not filed the final report and thereby the petitioner is entitled for statutory bail.

7. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and the fact that the respondent has not filed the final report in both the cases despite the lapse of statutory period, this Court is left with no other option except to grant bail. Hence, 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.25,000/- (Rupees Twenty Five Thousand Only) with two sureties out of which, one surety shall be a Government Surety, each for a like sum to the satisfaction of the learned Judicial Magistrate, Cheyyar, 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 on his release from prison shall report before the respondent everyday 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.

8. Though, it has been stated by the learned Government Advocate (Crl. Side) that there are 60 previous cases pending against the petitioner, the petitioner has been in judicial custody for about 7 months and the respondent has been lethargic in investigating the case and filing the final report. Thereby, this Court is left with no other option except to grant bail to the petitioner.

9. In view of the above, the Superintendent of Police, Tiruvannamalai, is directed to call for explanation from the respondent and take appropriate action against the respondent police if there had been any lapse on their part in not filing final report within the time against the petitioner who has got 60 previous cases. The Superintendent of Police is also directed to see to it that such lapses do not happen in future.

-sd/-
21/12/2020

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,
CHEYYAR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

5 THE SUPERINTENDENT
OF POLICE, THIRUVANNAMALAI

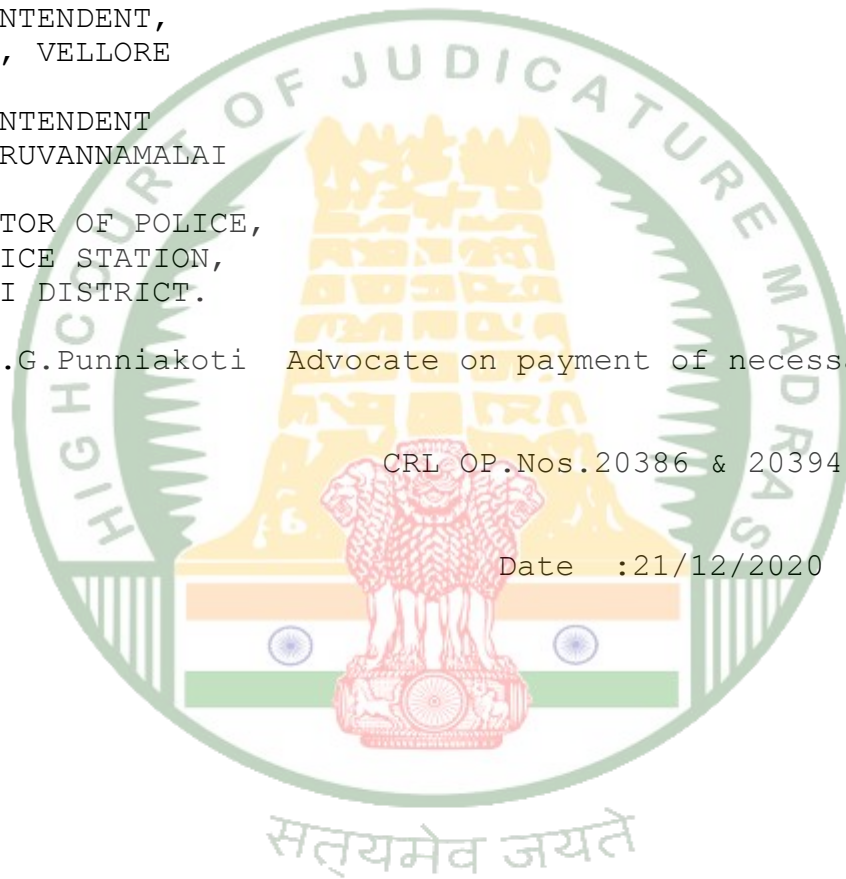
6 THE INSPECTOR OF POLICE,
ANAKKOVOR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

CC to Mr.G.Punniakoti Advocate on payment of necessary charges

CRL OP.Nos.20386 & 20394 of 2020

Date :21/12/2020

RVR 22/12/2020



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