

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.20218 of 2020

SANTHOSH @ SANTHOSH KUMAR

... Petitioner

Vs.

State rep. by

... Respondent

The Inspector of Police
Kannamangalam Police Station,
Tiruvannamalai District.
(Crime No.52 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.52 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Nirmal Krishnan

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 31.01.2020 for the offence punishable under Section 454, 380 of IPC, in Crime No.52 of 2020, on the file of the respondent seeks bail.

2.The case of the prosecution as per the *de facto* complainant viz. Jaya is that on 27.01.2020 she had locked her house and went to the shop and came back around 10.45 p.m. and she was shocked to see her house was broke open by somebody and she found her gold ear stud weighing one sovereign was missing from the house.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that based on the other false complaints registered against the petitioner, he was detained under Act. 14 on 07.05.2020 and the petitioner has challenged the said order of detention and it was quashed by this Court in H.C.P.No.805

of 2020 vide order dated 29.10.2020. He would further submit that the petitioner is in custody from 31.01.2020 for more than 10 months and the respondent has not filed the final report so far, thereby, he is entitled for statutory bail under Section 167(2) Cr.P.C.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner broke open the house of the defacto complainant and committed theft of one sovereign of gold ear stud from the house. He would further submit that apart from this case, the petitioner has got three previous cases of similar nature. He would further submit that the respondent police has not filed the final report in this case.

5.Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and also considering the fact that the petitioner is in custody from 31.01.2020 and the final report has not been filed in this case till date, this Court is inclined to grant bail to the petitioners 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 **Judicial Magistrate, Arni, Tiruvannamalai**, 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 police 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.

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

-sd/-
18/12/2020

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,
ARNI, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KANNAMANGALAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 CC to M/S G.NIRMAL KRISHNAN Advocate on payment of
necessary charges SR.NO.8481

CRL OP.20218/2020

Date :18/12/2020

TA-21/12/2020

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