

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HONOURABLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.406 of 2021

1. MANIKANDAN @ CHINNAMANI
2. JOSUVA @ LAWARANCE

... Petitioners

Vs.

State rep. by
The Inspector of Police ,
Thiruninravur Police Station,
Chennai District.
(Crime No.698 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.698 of 2020 on the file of the respondent police.

For Petitioners : Mr.W.Camyles Gandhi

For Respondent : Mr.C.Iyyppa Raj,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to the judicial custody on 17.10.2020 for the alleged offences punishable under section 341, 294(b), 336, 392, 397 and 506(ii) of IPC in Crime No.698 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the de facto complainant is that on 16.10.2020, the petitioners waylaid the de facto complainant and robbed a sum of Rs.500/- and also threatened him with dire consequences.

3. The learned counsel appearing for the petitioners would submit that this is the second application for bail and the earlier application for bail in CrI.O.P.No.19481 of 2020 was dismissed on 10.12.2020. He would further submit that the petitioners are innocent and they have been falsely implicated in this particular case. He would further submit that a very reading of FIR would show that the

petitioners under Act 14. He would further submit that it is true that both the petitioners have previous cases and as far as the first petitioner is concerned, there are 8 cases and insofar as the second petitioner is concerned, there are 3 previous cases and that only in order to put fetters on the petitioners, the present case has been filed. He would further submit that the petitioners were arrested as early as on 17.10.2020 and more than 90 days have lapsed and that the respondent has not filed the final report yet before the concerned Court and thereby, the petitioners are entitled for bail as per Section 167(2) Cr.P.C.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners are habitual offenders and as far as the first petitioner is concerned there are 8 previous cases registered before various police stations and as far as the second petitioner is concerned, there are 3 previous cases. However he would submit that the respondent has not filed the final report yet.

5. This Court on earlier occasion, taking into consideration that the petitioners are habitual offenders had dismissed the earlier bail application filed by the petitioner. However, despite the lapse of 90 days, the respondent has not filed the final report and thereby this court has no option than to grant bail to the petitioners. It is also the submission of the learned counsel for the petitioners that the petitioners have been granted bail in all the previous cases.

6. In view of the above, 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 each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thiruvallur, 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 on their release from prison shall report before the respondent police everyday at 5.30 p.m. until further orders.

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

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

(f) the petitioners 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/-
18/01/2021

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,
NO.II, THIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
THIRUNINRAVUR POLICE STATION,
CHENNAI DISTRICT.

+1 CC to M/S.W.CAMYLES GANDHI Advocate on payment of necessary charges SR.No.415

CRL OP.406/2021

Date :18/01/2021