

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.1150 of 2021

Gopalakrishnan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Jalakandapuram Police Station,
Salem District.
(Crime No.188 of 2018)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.188 of 2018 pending investigation on the file of the Respondent.

For Petitioner : Mr. T.M.Madasamy

For Respondent : Mr.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 01.11.2020 for the alleged offence initially "Man Missing" and later, it was altered into one under Sections 364, 364A, 457, 392, 302 and 201 of IPC in Crime No.188 of 2018, seeks bail.

2. The case of the prosecution as per the *de facto* complainant is that there are totally 7 accused in this case and the petitioner is A6. The deceased Sakthivel has received money from A1 for the purpose of getting 'Iridium' and later, cheated him. Therefore, A1 along with other accused had abducted the deceased by name Sakthivel and committed murder. On the complaint given by the wife of the deceased, originally, the case was registered for "Man Missing" and later, during the course of investigation, it came to light that the petitioner along with other accused abducted the victim and committed murder. Hence, the case was altered into one under Sections 364, 364(A), 457, 392, 302 and 201 of IPC.

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 submit that the petitioner is ranked as A6, except this accused, all other accused have been released on bail. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that there are totally seven accused in this case and A1 along with other accused abducted the deceased and murdered him. She would submit that all the other accused have been released on bail.

5. Heard the learned counsel for the petitioner and also the learned Additional Public Prosecutor appearing for the respondent. Perused the entire materials available on record.

6. Taking into consideration the facts and circumstances of the case and the fact that similarly placed accused have been released on bail and also considering the period of incarceration suffered by the petitioner, 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.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Mettur, Salem District 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.

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

-sd/-
04/02/2021

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,
METTUR, SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
JALAKANDAPURAM POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S.T.M.MADASAMY Advocate on payment of necessary charges

CRL OP.1150/2021

Date :04/02/2021

TA-05/02/2021

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