

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.2737 of 2021

1. Saravanan
2. Shankar

... Petitioners

Vs.

State by
The Inspector of Police,
Karuppur Police Station,
Salem District.
(Crime No.838 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.838 of 2020 pending investigation on the file of the Respondent.

For Petitioners : Mr.S.Jeyakumar

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are nineteen accused and the petitioners are arrayed as A3 and A2. The petitioners, who were arrested and remanded to judicial custody on 25.12.2020 for the offence punishable under Sections 342, 457, 397 r/w 395 of I.P.C. in Crime No.838 of 2020 on the file of respondent, seek bail.

2. The case of the prosecution is that the defacto complainant is the Additional General Manager of a nationalised bank. Earlier, by mortgaging property of Hi-Tech Mineral Industries has obtained a loan and they have failed to repay the amount. Hence, the proceedings under SARFAESI Act has been initiated, the properties were acquired and handed over to official liquidator. On 09.11.2020, all the accused persons have entered into factory premises and broke open the transformer and took the copper plates worth of Rs.7 lakhs. Hence, the criminal case was registered against the petitioners and now, they have filed this petition seeking for bail.

3. The learned counsel appearing for the petitioners submitted that even as per the F.I.R., only unidentified persons have entered into premises and broke open the transformer and stolen the copper plates worth about Rs.7 lakhs. He would submit that absolutely there is no materials recovered from the petitioners and they have been falsely implicated in this case. He would submit that they are

innocent persons and they are in judicial custody for more than one month. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed this petition on the ground that totally, there are 19 accused. She would submit that all the accused persons have broken open and stolen copper plates. She would submit that all other accused are absconding and no materials were recovered from the petitioners. Hence, she opposed to grant bail to the petitioners.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioners as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the facts and circumstances, there is no specific overtact attributed against the petitioners, and also considering the period of incarceration suffered by the petitioner from 25.12.2020, 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 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, Salem 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 daily at 10.30 a.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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

16/02/2021

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, SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

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

CRL OP.2737/2021

Date :16/02/2021

RVR 17/02/2021

WEB COPY