

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.4598 of 2021

Kashim

...Petitioner

Vs.

State by

... Respondent

The Inspector of Police,
P-5 MKB Nagar Police Station,
Chennai.
(Crime No.63 of 2021)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.63 of 2021 on the file of Respondent police.

For Petitioner : Mr.B.M.Sanathanam

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

O R D E R

(The case has been heard through video conference)

Totally, there are nine accused and the petitioner is arrayed as A2. The petitioner, who was arrested and remanded to judicial custody on 29.01.2021 for the offence punishable under Sections 364(A), 397, 506(ii) of I.P.C. in Crime No.63 of 2021 on the file of respondent police, seeks bail.

2. The case of the prosecution is that at the instigation of petitioner, all the accused abducted the defacto complainant and snatched the ATM card, and thereafter, withdrawn a sum of Rs.2,50,000/-, which was shared by A1 and A3. Hence, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 29.01.2021. Now, it is stated that all the accused A1 to A3 were arrested and A9 is absconding. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for petitioner would submit that the petitioner has been falsely implicated in this case and he has not involved in the offence. He would submit that his name was also not

found in the F.I.R. and the amount, which was withdrawn from ATM, was shared only by A1 and A3. He would submit that the petitioner is in jail for nearly 40 days. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent has strongly opposed this petition on the ground that at the instigation of petitioner, all the accused have abducted the defacto complainant and withdrawn a sum of Rs.2,50,000/-, which was recovered from A1 and A3. The petitioner is the main brain for the entire occurrence and there is no bad antecedents. However, she opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Addl. Public Prosecutor appearing for respondent.

6. Taking into consideration of the fact that, the recovery was made from A1 and A3, the only allegation is that at the instigation of petitioner, all the accused have abducted the defacto complainant, the investigation is almost completed, there is no previous antecedents against the petitioner and considering the period of incarceration suffered by the petitioner from 29.01.2021, 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 X Metropolitan Magistrate, Egmore, Chennai 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, after his release from prison, report before the respondent daily 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/-
08/03/2021

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 X METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

2 THE CHEIF METRTOPOLITAN MAGISTRATE,
EGMORE[FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
P-5, MKB NAGAR POLICE STATION, CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON-II,
PUZHAL, CHENNAI.

+1 CC to M/S.B.M.SANTHARAM Advocate on payment of necessary charges SR.NO.2934.

CRL OP.4598/2021

Date :08/03/2021

EP-09/03/2021