

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4616 of 2021

1. Sekar
2. Murugan

... Petitioners

Vs.

State rep. By
The Sub-Inspector of Police,
Thusi Police Station,
Tiruvannamalai Dt.
(Crime No.81 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.81 of 2021 on the file of Respondent police.

For Petitioners : Mr.Duraikannan

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

O R D E R

(The case has been heard through video conference)

Totally, there are five accused, and the petitioners are arrayed as A1 and A2. The petitioners, who were arrested and remanded to judicial custody on 24.02.2021 for the offence punishable under Sections 399 of I.P.C. in Crime No.81 of 2021 on the file of respondent police, seek bail.

2. The case of the prosecution is that all the accused made a preparation to commit a decoity. Hence, a criminal case has been registered against the petitioners and they were arrested and remanded to judicial custody on 24.02.2021. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for petitioners would submit that the petitioners are innocent persons, they have not involved in the offence as alleged in the complaint and they have been falsely implicated in the present case. He would submit that the occurrence was taken place in the year 2016 and for the past five years, no case has been filed against him. He would submit that they are in jail from

19.12.2020. Hence, he prayed to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent has strongly opposed this petition on the ground that the petitioners are habitual offenders and having nine previous cases, of course, all the cases are prior to 2016. Now, the present case has been filed against him stating that he has made a preparation to commit a decoity. She would submit that now the investigation is almost completed. However, 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 Addl. Public Prosecutor appearing for respondent.

6. On perusal of records, the allegation was made that they have made a preparation to commit decoity. Even though the 1st petitioner said to have nine previous cases, the cases are of the year 2016. Now, this case has been registered against him. The 2nd petitioner is having one previous case. Now, the investigation has been completed.

7. Taking into consideration of the facts and circumstances, now the investigation is almost completed, and considering the period of incarceration suffered by the petitioners for more than one month, 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) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Cheyyar, Tiruvannamalai Dt. 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, after their release from prison, shall stay report before the respondent 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/-

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 JUDICIAL MAGISTRATE,
CHEYYAR, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUVANNAMALAI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
THUSI POLICE STATION,
TIRUVANNAMALAI DISTRICT.

5 THE SUPERINTENDENT,
SUB-JAIL, POLUR,
TIRUVANNAMALAI.

+1 CC to M/S.DURAIKANNAN Advocate on payment of necessary charges
SR.NO.2923.

CRL OP.4616/2021

Date :08/03/2021

EP-09/03/2021