

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.6349 of 2021

Sarath @ Sarath Kumar

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Madipakkam Police Station,
Chennai.
(Crime No.295 of 2019) Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.295 of 2019 pending investigation on the file of the Respondent.

For Petitioner : Mr.J.Franklin

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 27.02.2021 for the offence punishable under Sections 406 and 420 of I.P.C., in Crime No.295 of 2019, seeks bail.

2. The case of the prosecution is that the petitioner and the defacto complainant are known to each other and on the guise of purchasing a gold at cheap rate, the petitioner has received more than Rs.16 lakhs. But, the defacto complainant failed to get the gold loan and returned the money. Hence, a criminal case has been registered against him and the petitioner was arrested and remanded to judicial custody on 27.02.2021. Now, the present petition has been filed seeking bail.

3. The learned counsel for the petitioner would submit that it is only money transaction between the petitioner and defacto complainant. Before registering the complaint, the petitioner has paid a sum of Rs.4 lakhs and the remaining amount was yet to be paid. The defacto complainant has also given a letter to the respondent

police to that effect and he has produced the copy of the letter. Now, he is in jail for more than one month. He would submit that he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that the petitioner has received more than Rs.16 lakhs and cheated the defacto complainant. She would submit that he has paid only part of the amount and the remaining amount yet to be paid. Now, the investigation is almost completed and there is no bad antecedents against the petitioner. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that it is a money dispute, now the petitioner is willing to pay substantial amount, and also considering the period of incarceration suffered by the petitioner for nearly one month, 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 that **the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) to the credit of Crime No.295 of 2019 on the file of respondent police before the Judicial Magistrate No.II, Alandur within a period of four weeks from the date of releasing him on bail** and also 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 No.II, Alandur**, 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 as and when required for interrogation;**

(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.

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

-sd/-
31/03/2021

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-II,
ALANDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSEPCTOR OF POLICE,
MADIPAKKAM POLICE STATION,
CHENNAI.

5 THE OFFICER INCHARGE
SUB-JAIL, SAIDAPET, CHENNAI.

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

सत्यमेव जयते

CRL OP.6349/2021

Date :31/03/2021

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TA-01/04/2021