

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.9472 of 2021

Xiao Yamao

... Petitioner

Vs.

State Represented by
Inspector of Police,
CBCID, Cyber Crime Cell,
Egmore, Chennai-08.
(in Crime Cyber Crime Cell
Cr.No.04 of 2021

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Cr.No.4 of 2021 registered on the file of the respondent police.

For Petitioner : M/s.Aravind Athithan

For Respondent : Mr.E.Rajthilak
Government Advocate (CrI side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 10.03.2021 for the offences under Sections 294(b), 384, 506(i) of IPC r/w Section 3 & 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act 2003 and Section 67 of Information Technology Act 2000 in Cr.No.4 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner created on-line application in the name of 'My Cash; Cash OK, Paloan etc., and lended money through the mobile application and collected more than the amount actually lent and also threatened the persons who had obtained loan to pay out more money by way of exorbitant interest and cheated the general public for which the present criminal action has been initiated against the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner is in no way connected with the alleged offence and he has been falsely implicated in this case and the petitioner has been in jail from 10.03.2021. He further submits that two cases were registered against the petitioner and in one of the case, the petitioner has been granted default bail by the lower Court and that except this case, no other case is pending against the petitioner. It is further submitted by the learned counsel for the petitioner that the petitioner, in order to show his bona fide, on his own volition, is ready and willing to contribute a sum of Rs.15,00,000/- for the purpose of purchasing COVID-19 vaccines and associated medicines for the purpose of treating the persons affected with COVID-19 in the present pandemic situation. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) vehemently opposed the grant of bail by submitting that the petitioner is a foreign citizen and that once bail is granted there are all possibilities of the petitioner moving out of the country. He further submitted that there are two cases registered against the petitioner and in one case default bail was granted by the lower Court and the other case is pending. It is further submitted by the learned Government Advocate that in order to restrict the movement of the petitioner and to stop him from moving out of the borders of the State, G.O.Ms.No.24 dated 21.01.2021 was issued under the Foreigners Act restricting the petitioner's movement in the State and further the said Government Order also provides that the petitioner along with other accused were directed to reside in the Special Camp Identified by the District Collector, Trichy Cantonment.

5. This Court paid its careful consideration to the submissions advanced by the learned counsel on either side. It is borne out by record that in one of the pending case, the petitioner has been granted default bail by the lower court and in the course of time, the petitioner would also be entitled for default bail in the present case as well. In such a scenario, it would not be prudent for this Court to dismiss the bail application of the petitioner, more so, when the petitioner, to show his bona fides, on his own volition, is willing to contribute a considerable sum for COVID relief for the purpose of procurement of vaccines and other allied medicines. Taking into consideration the above fact and also the further fact that the Government itself, by issuing G.O. Ms. No.24, has restrained the movement of the petitioner in the State, this Court, in the fitness of things is of the considered view that the petitioner could be enlarged on bail on the following conditions :-

6. Accordingly, the petitioner is directed to be released on bail subject to the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Central Prison, Puzhal, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) Within a period of four weeks after the release, the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Saidapet;

(c) the petitioner shall to deposit a sum of Rs.15,00,000/- (Rupees fifteen Lakhs Only) through RTGS/NEFT/Cash/Demand Draft in favour of "The Health Secretary, Government of Tamil Nadu" for the purpose of utilising the said amount for procuring COVID-19 vaccines and associated medicines for treating COVID-19 patients and produce proof of such payment to the Judicial Magistrate, Saidapet at the time of execution of sureties.

(d) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(e) the petitioner is directed to comply with directions and conditions codified by the State Government in G.O.Ms.No.24 dated 21.1.2021.

(f) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(g) the petitioner shall appear before the CB-CID, Trichy, daily at 10.30 a.m. until further orders;

(h) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) the petitioner shall not abscond either during investigation or trial;

(j) on breach of any of the aforesaid conditions, the learned 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]; and

(k) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
20/05/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
SAIDAPET.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
CBCID, CYBER CRIME CELL,
EGMORE, CHENNAI-08.

WEB COPY

6 THE OFFICER INCHARGE
THE CB-CID, TRICHY.

7 THE DISTRICT COLLECTOR,
TRICHY CANTONMENT.

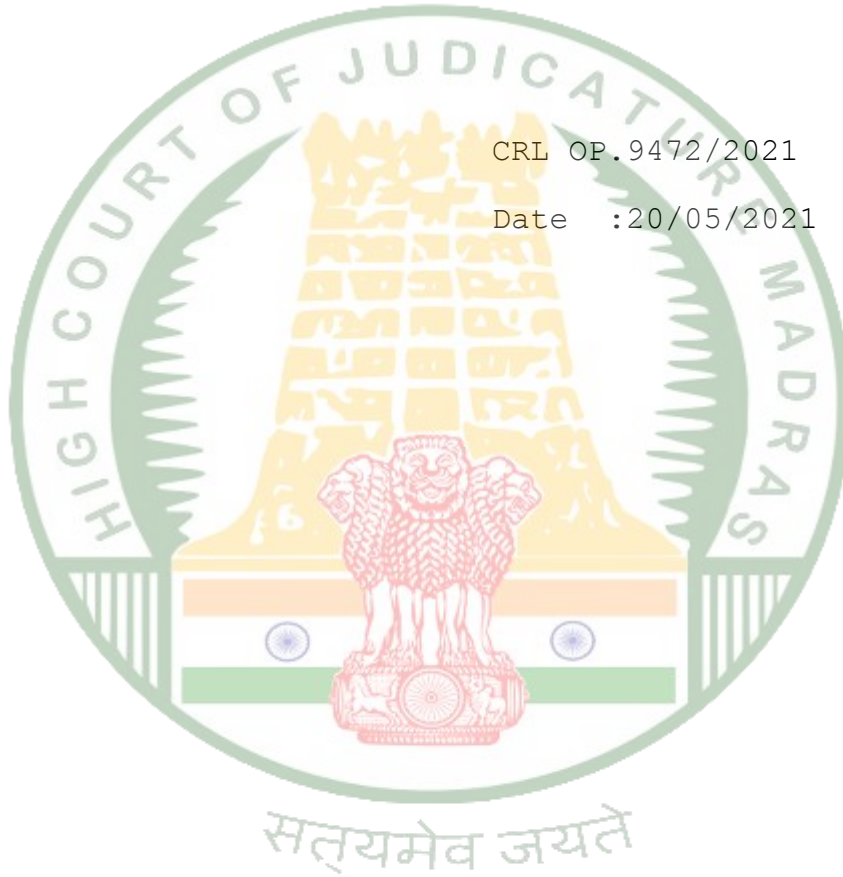
8 THE HEALTH SECRETARY,
GOVERNMENT OF TAMIL NADU.

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

cs 27/05/2021

CRL OP.9472/2021

Date :20/05/2021



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