

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.9505, 9516 & 9517 of 2021

Crl.O.P.No.9505 of 2021

1. Murugan
2. Arun
3. David

... Petitioners

Crl.O.P.No.9516 of 2021

1. Kamal
2. Kames

... Petitioners

Crl.O.P.No.9517 of 2021

Mohanakrishnan @ Rajesh

... Petitioner

Vs.

State Rep. by,
The Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.
Crime No. 494 of 2021
in all Crl.O.Ps

... Respondent

COMMON PRAYER: Criminal Original petitions have been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail pending investigation in Crime No.494 of 2021 on the file of respondent police.

For Petitioners : Mr. R.Sasikumar
in Crl.O.P.Nos. 9505 & 9516 of 2021

: Mr.K.G.Senthilkumar
in Crl.O.P.No.9517 of 2021

For Respondent : Mr.E. Rajthilak
Government Advocate (Crl.Side)
in all Crl.O.Ps

COMMON ORDER

The petitioners who were arrested on 18.04.2021 and remanded to judicial custody for the offences under Sections 399 of I.P.C in Crime No.494 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioners had planned to commit dacoity which resulted in the registration of the crime.

3. The respective learned counsel for the petitioners submit that the petitioners are innocent person and they have been falsely implicated in this case. They further submit that the petitioners are in judicial custody from 18.04.2021.

4. The learned Government Advocate (Crl. Side) submits that the petitioners in the present petition (Crl.O.P.No.9505 of 2021) are A-4 to A-6 and that insofar as A-5 and A-6 are concerned, there are two previous cases pending against them. He further submits that insofar as the petitioner in Crl.O.P.No.9517 of 2021 is concerned, there are three previous cases pending against him. However, he fairly concedes that insofar as A-2 to A-4, there are no previous cases pending against them. However, as all the persons have colluded to commit dacoity, he vehemently opposes grant of bail to all the petitioners.

5. The learned counsel for the petitioner in Crl.O.P.No.9517 of 2021 who is shown as A-1 in the FIR is concerned, fairly submits that in order to show his bona fide and change of heart that petitioner, on his own volition is ready and willing to contribute a sum of Rs.1,00,000/- towards COVID relief and in view of the above, this Court may consider granting reprieve by granting bail to the petitioner.

6. True it is that the complaint registered against the petitioners is grave in nature. However, it is fairly accepted that the petitioners have been under incarceration for quite sometime. Though the offence alleged against the petitioners is grave, however, insofar as A-2 to A-4 is concerned, there are no previous cases pending against them. Therefore, this Court is inclined to consider the grant of bail to them favourably.

7. Insofar as A-1, who is the petitioner in Crl. O.P. No.9517 of 2021 is concerned, though there are three previous cases pending against him, however, there seems to be a change of heart on the part of the said petitioner, who is oblivious of the pandemic gripping the country and has come forward on his own volition to contribute to a

human cause. This shows that there is still some iota of goodness left with A-1. In such circumstances, in view of the bona fide intent of A-1 in trying associate himself for eradicating COVID and to contribute some amount, which is on his own volition, this Court is inclined to consider his case also favourably.

8. However, insofar as A-5 and A-6 are concerned, the said petitioners are not in any way realising their mistake in committing criminal acts and there seems to be no bona fide on their part to correct themselves by shoing any helping hand to the cause of humanity inspite of previous cases of similar nature pending against them. In such circumstances, granting reprieve to the said petitioners would have serious consequences to the society as they are likely to indulge in further acts of similar nature as they seem to have not realised their mistake. In such circumstances, this Court is not inclined to grant bail to A-5 and A-6.

9. Accordingly, this Court is inclined to grant bail to the petitioners in Crl.O.P.No.9517 of 2021 and 9516 of 2021 and to the 1st petitioner alone in Crl.O.P.No.9505 of 2021 subject to the following conditions :-

(a) the petitioner in Crl.O.P.No.9517 of 2021 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the District Jail, Chengalpet, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) the petitioners in Crl.O.P.No.9516 of 2021 shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Central Prison, Puzhal, in which the petitioners are confined and on such execution the petitioners shall be released from prison;

(c) the 1st petitioner in Crl.O.P.No.9505 of 2021 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;

(d) Within a period of four weeks after the release, each of 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 No.I, Kanchipuram;

(e) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioners are 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.

(f) the petitioner in CrI.O.P.No.9517 of 2021 shall to pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) either through RTGS/NEFT/Cash/Demand Draft in favour of "The Medical Superintendent/Authorised Officer, Government Hospital, Kanchipuram" for the purpose of treating COVID-19 patients and produce proof of such payment of the above amount to the Judicial Magistrate No.1, Kanchipuram, at the time of release on bail;

(g) the petitioners and 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;

(h) the petitioners shall report before the respondent police, daily at 10.30 a.m. until further orders;

(i) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(j) the petitioners shall not abscond either during investigation or trial;

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

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

Insofar as the petitioners/A-5 and A-6 in CrI. O.P. No.9505 of 2021 is concerned, the petition as against them stands dismissed.

-sd/-

20/05/2021

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.1, KANCHIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE OFFICER INCHARGE
DISTRICT JAIL, CHENGALPET.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
SIVA KANCHI POLICE STATION,
KANCHEEPURAM DISTRICT.

7 THE MEDICAL SUPERINTENDENT/
AUTHORISED OFFICER, GOVERNMENT HOSPITAL,
KANCHIPURAM FOR THE PURPOSE OF
TREATING COVID-19 PATIENTS

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

CRL OP.Nos.9505, 9516 & 9517/2021

Date :20/05/2021

cs 27/05/2021

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