

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 08.06.2021**

**CORAM:**

**THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR**

**CRL.O.P.No.9971 of 2021**

Abdul Malik @ Basha @ Sagul Ahameed

... Petitioner /  
Accused 2

Versus

State by rep. By  
The Inspector of Police,  
M-8, Sathangadu Police Station,  
Chennai  
(Crime No.104 of 2021)

...Respondent /  
Complainant

PRAYER: Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioners on bail, pending investigation, in connection with the case in Crime No.104 of 2021 on the file of the respondent.

For Petitioner : Mr.E.Thenrajan

For Respondent : Mr.E.Raj Thilak,  
Counsel for Government(Crl.Side)

ORDER

The petitioner/Accused No.2 who was arrested and remanded to judicial custody on 28.04.2021 for an offence under Section 397 of IPC in Crime No.104 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 19.04.2021, the petitioner and others had entered into the house of the defacto complainant and stolen the jewels and cash. Therefore, the present complaint has been registered by the respondent police.

3. The learned counsel appearing for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. The learned counsel further submitted that this petitioner was arrested on 18.03.2021 in another case and subsequently, he was formally arrested with regard to this crime number on 28.04.2021. The learned counsel further submitted that the respondent police wantonly included the name of the petitioner in the above crime to create habituality and hence, he prays to grant bail to the petitioner.

4. The learned counsel for Government (Criminal Side) submitted that there are four previous case pending against this petitioner. Based on the confession given by the Accused 1 and 2, the petitioner was added as an accused in the above crime and hence, he opposed to grant bail to

this petitioner.

5. Taking into consideration, the facts and circumstances of the case and also of the fact that this petitioner is under incarceration with regard to another crime number from 18.03.2021 onwards and this incident is said to have been taken place on 19.04.2021, this Court is inclined to grant bail to this petitioner subject to the following conditions.

(a) the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lock down and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of the Aadhar card or Bank pass Book to ensure his identity;

(d) On release, the petitioner shall report before the respondent police, as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

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

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

(h) 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]***;

(i) 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.

**08.06.2021**

Index: Yes/No  
Internet: Yes/No

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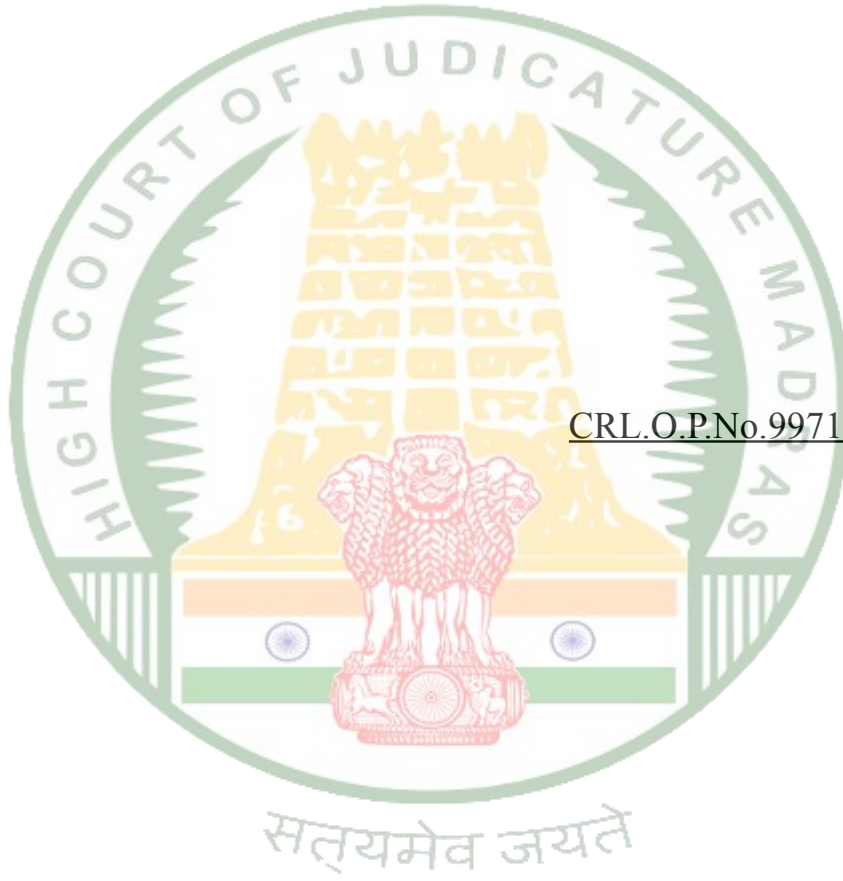
To

1. The learned Judicial Magistrate,  
Thiruvottiyur
2. Central Prison, Puzhal
3. State by rep. By  
The Inspector of Police,  
M-8, Sathangadu Police Station,  
Chennai
5. The Additional Public Prosecutor,  
High Court of Madras.



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M.NIRMAL KUMAR, J.  
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