



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 09/09/2021
PRESENT

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The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD).Nos.13122, 13124, 13031 and 13082 of 2021

- | | |
|-----------------------------|--|
| 1.Rasool | ... Petitioner/Accused No.27
in Crl.O.P.No.13122 of 2021 |
| 2.Abdul Muheethu | ... Petitioner/Accused No.29
in Crl.O.P.No.13124 of 2021 |
| 3.Alangara Sakkratis | |
| 4.Nicholos @ Karutha Kannan | ... Petitioners/Accused Nos.30 & 31
in Crl.O.P.No.13031 of 2021 |
| 5.Chinna @ Jagatheeswaran | ... Petitioner/Accused No.32
in Crl.O.P.No.13082 of 2021 |

Vs

The State rep.by,
The Inspector of Police,
Q Branch, CID
Madurai Police Station,
Madurai.
Crime No.01/2021.

... Respondent/ complainant
in all the petitions

For Petitioners : Mr.V.A.Dhana Aravindha Balaji,
Advocate
in Crl.OP.Nos.13122 & 13124 of 2021

For Petitioners : Mr.S.Senthil Sankara Natha Kumar
Advocate
in Crl.OP.No.13031 of 2021

For Petitioner : Mr.G.Bhagavath Singh
Advocate
in Crl.OP.No.13082 of 2021

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)
in all the petitions

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.



COMMON PRAYER :-For Bail in Crime No.01/2021 on the file of the Respondent Police

COMMON ORDER : The Court made the following order :-

The petitioners/A27, A29, A30, A31 and A32, who were arrested on 17.06.2021, 18.06.2021, 22.06.2021 and 25.06.2021 respectively for the alleged offences under Sections 120(B), 370, 420 I.P.C, Section 12(1)(a) of Passport Act, 1967 and Section 14A(b), 14(c) of Foreigners Act in Crime No.01 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners and other accused have received money from 23 Srilankan nationals to transport them to Canada via India illegally without any valid document.

3.The learned counsel for the petitioners would submit that due to the prevailing condition in Srilanka, the accused persons are intending to go to Canada. Since some of them are not in a position to spend money for Visa, they have indulged in such an activity of entering into India illegally with an intention to go to Canada. He would further submit that the petitioners are innocents, they have not committed any offence as alleged by the prosecution and they are in judicial custody for the past 70 days. Hence, he prays for grant of bail to the petitioners.

4.The learned Government Advocate (Crl.side) appearing for the respondent would submit that on 27.04.2021, 23 Srilankan nationals, by trusting the words of one Srilankan national Kannan @ Mayuran that he would take them to Canada where they can earn a lot of money, gathered at Silambam Kadal Udaippu, Seashore in Srilanka. They boarded in three fiber boats and started their journey towards Canada without any valid travel documents. In the meantime, the relatives of those 23 Srilankan nationals have transferred huge amount to Mayuran's bank account. On 28.04.2021, those 23 persons were dropped at Thoothukudi seashore in a small boat. Thereafter, accused no.31 had transported the 23 Srilankan nationals from Thoothukudi to Madurai M.G.R. Bus Stand, from where, the accused nos. 1 and 2 have picked and dropped them in a Company belonging to accused no.2. After two days, they were shifted to Vinayaka Body Building premises, SIDCO Campus at Kappalur in Madurai, where they were kept for 40 days without valid travel document in violation of Rule 3(b), 6(a) of the Passport (Entry into India) Rule, 1950. Rule 3 clearly states that no person proceeding from any place outside India shall enter or attempt to enter into India by water, land or except through such port (including airport) from other places as may be specified in this on behalf of the Central Government. On receiving the secret information, the respondent police had surveilled on them and a preliminary enquiry was made thereon, which disclosed that 23 Srilankan nationals, without passport, valid visa and travel documents, unlawfully entered into India, were



staying in India for nearly 40 days with an intention to go to Canada illegally. Based on the voluntary confession statement of accused no.26, these petitioner were arrested. He would further submit that the co-accused was released on bail by this Court in CrI.OP(MD).No.9699 of 2021.

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5.The allegation as against these petitioners is that they have arranged accommodation for those who came to India from Srilanka and also facilitated them to go to Canada by promising them to get job in Canada. Admittedly, there is no creation of any document, but, the petitioners have given only asylum to the Srilankan nationals and they have stayed in India en route Canada.

6. It appears that the petitioners are in jail for the past 70 days and the substantial portion of investigation might have been completed.

7.Considering the facts and circumstances of the case, implication of the petitioners as accused based on the confession statement of the co-accused, the period of incarceration of the petitioners, completion of substantial portion of investigation and grant of bail to the co-accused, this Court is inclined to grant bail to the petitioners.

8.Accordingly, these Criminal Original Petitions are allowed and the petitioners are ordered to be released on bail on their executing 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 No.IV, Madurai and on further conditions that:

[a] 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.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m. and 05.30 p.m until further orders.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners shall not tamper with the evidence or witness either during investigation or trial.

[e] 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]**.



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S/o.Mohammed Ali ... Petitioner/Accused No.27

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
09/09/2021

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/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDICIAL MAGISTRATE NO.IV,
MADURAI.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
 - 3 THE INSPECTOR OF POLICE
Q BRANCH, CID MADURAI POLICE STATION, MADURAI.
 - 4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2 CC to M/s.DHANA LAW ASSOCIATES, Advocate(SR-6133, 6132[I]dated 09/09/2021)
- +1 CC to Mr.G.Bhagavath Singh, Advocate(SR-6128[I]dated 09/09/2021)
- +1 CC to Mr.S.Senthil Sankara Natha Kumar, Advocate(SR-6137[I]dated 09/09/2021)

ORDER
IN
CRL OP(MD) No.13122 of 2021
Date :09/09/2021

MK/VR/SAR.IV/09.09.2021/4P/10C