



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.2752 of 2022

Shankar

...Petitioner

Vs.

The State rep by
The Inspector of Police,
K-4 Anna Nagar Police Station
Chennai
(Crime No.06 of 2022)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.06 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.Mohan Raj

For Respondent : Ms.G.V.Kasthuri
(Additonal Public Prosecutor)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 07.01.2022 for the offence under Section 395 of IPC in Crime No.06 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is doing Textiles export business in Tiruppur District. The petitioner approached the defacto complainant and asked him to invest in a Trade Profit Fund and showed the bank statements of a company namely Lion Dates Impex Pvt. Ltd. Believing his words, the defacto complainant along with his relatives came to Chennai on 02.01.2022 with cash of Rs.1 lakh and his company documents and met the petitioner. But the petitioner asked them to wait in the car for some time and in the meantime, he called some persons over phone. Subsequently, a group of members came to the spot in 10 motor bikes and tried to open the car door of the defato complainant and attempted to rob the amount and documents inside the car. Hence, the



defacto complainant raised alarm following which, people in and around came to rescue him and on seeing them, the accused ran away from the scene of occurrence. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He would further submit that due to dispute with regard to business transaction, the defacto complainant and the petitioner developed animosity and as a result of which, a false complaint has been lodged against the petitioner. He would further submit that the petitioner is a first offender and he is having permanent address and that he has been suffering incarceration for more than 30 days from 07.01.2022. Hence, he prayed for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police fairly conceded that the petitioner and the defacto complainant have business rivalry.

5. The submissions made by the learned Counsel on either side is considered.

6. It is seen that the case has been registered for the attempt made by the petitioner and hence, the question of recovery does not arise in this case and that the petitioner is in judicial custody from 07.01.2022. Considering the above facts and circumstances of the case and the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, 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 and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned V Metropolitan Magistrate, Egmore, Chennai, within 15 days from the date of commencement of the Court's normal functioning, 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 their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of 30 days and thereafter, 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.

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

-sd/-

07/02/2022

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 V METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

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

3 THE INSPECTOR OF POLICE,
K-4, ANNA NAGAR POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CHENNAI.



5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.S.MOHAN RAJ Advocate on payment of necessary charges

CRL OP.2752/2022

Date :07/02/2022

CSK 08/02/2022