



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.3795 of 2022

Benyamin

...Petitioner

Vs.

The State rep. by
The Inspector of Police
F4 Thousand Lights Police Station,
Chennai
(Crime No.270 of 2021)

... Respondent

PRAYER:

Criminal Original Petition has been filed under Section 439 of Criminal Procedure Code, 1973 praying to enlarge the petitioner on bail in C.C.No.7887 of 2021 pending before the XIV Metropolitan Magistrate, Egmore (Crime No.270 of 2021 on the file of the respondent police).

For Petitioner : Mr.S.G.Abbas Kazmi

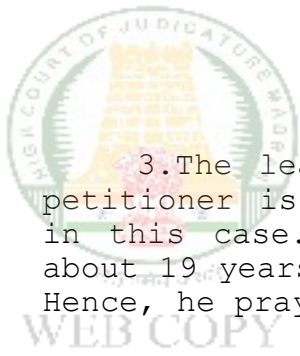
For Respondent : Ms.G.V.Kasthuri
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 17.07.2021 for the offences under Sections 379, 392, 465, 468, 471, 420 r/w 120(b) IPC r/w 3, 12, 13 & 14 of the Passports Act, 1967 @ 392 IPC and 465, 468, 471, 420 of IPC r/w 120(b) IPC and 14 of the Foreigner Act, 1946 in Crime No.270 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 13.07.2021 one, Ali Ahmed who is a Somalian National arrived in Chennai. While he along with his relative was proceeding by walk near the ration shop, Model School Road, three persons came in a car and claiming as Central Police searched for 'ganja'. Thereafter they took 3800 US dollar and leaving Rs.9,110/- escaped by their car. Hence the complaint.



3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is aged about 19 years and he is in judicial custody from 17.07.2021 onwards. Hence, he prays for bail.

4. M/s.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police raised objection stating that the petitioner being foreigner, if he is released on bail, he may be absconded from India. She would further submit that the other eight accused participated in the alleged occurrence are still in custody and accordingly, she opposes the petition.

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

6. The respondent police registered a case as against the petitioner for the offence punishable under Sections 379, 392, 465, 468, 471, 420 r/w 120(b) IPC r/w 3, 12, 13 & 14 of the Passports Act, 1967 @ 392 IPC and 465, 468, 471, 420 of IPC r/w 120(b) IPC and 14 of the Foreigner Act, 1946. In other words, on go through the averments found in the F.I.R. as well as in the charge sheet, it would go to show that during the relevant point of time, the petitioner and others waylaid the defacto complainant with cars and robbed an amount of one lakh rupees and odd. As of now, the stolen property was recovered and the case is in trial stage. Therefore in the said circumstances, further detention of the petitioner is unnecessary.

7. Accordingly, taking note of all the above said aspects into consideration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner is ordered to be released on bail after surrendering his original passport and on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned XIV Metropolitan Magistrate, Egmore at Chennai

(b) 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;

(c) the petitioner shall report before the learned XIV Metropolitan Magistrate, Egmore at Chennai on every hearings;

(d) The petitioner shall not leave India without getting permission from this Court.

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



(e) 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];

(f) 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/-

16/02/2022

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 XIV METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

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

3 THE INSPECTOR OF POLICE,
F-4 THOUSAND LIGHTS POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
PUZHAL-II, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.3795/2022

Date :16/02/2022

CSK 17/02/2022