



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.05.2022
PRONOUNCED ON : 06.05.2022

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.10801 of 2022

Guruprakash ... Petitioner

Versus

State rep by
The Inspector of Police,
Kuniyamuthur Police Station,
Coimbatore City.
(Crime No.116 of 2022)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.116 of 2022 on the file of the respondent police.

For Petitioner : Mr.K.Madhu

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

ORDER

A case was registered against the petitioner and others for the offence under Section 397 and 394 of IPC in Crime No.116 of 2022, in which the petitioner was arrayed as A1. The petitioner was arrested on 05.04.2022 and remanded to judicial custody. The petitioner filed bail application before the learned Principal District and Sessions Judge, Coimbatore, and the same was dismissed on 29.04.2022. Therefore, now the petitioner seeks bail.

2 The case of the prosecution is that the petitioner and others have threatened the defacto complainant and demanded Kanja, for which, the defacto complainant replied that he is not having Kanja. Later, the accused persons called the defacto complainant to a particular place and started to attack him and snatched his chain and also his friend's chain. Hence, the complaint.

3 The learned counsel for the petitioner would submit that in fact the petitioner, who was arrayed as A1, has also lost his chain in the alleged occurrence, which was clearly stated in the FIR



itself. Further, the defacto complainant himself stated that the accused persons have threatened the petitioner also saying not to talk with anyone, which clearly proves that the petitioner is not directly involved in the alleged occurrence. The petitioner is in custody from the date of arrest i.e. on 05.04.2022. The petitioner filed bail application before the learned Principal District and Sessions Judge, Coimbatore, and the same was dismissed on 29.04.2022. Hence, he would pray for grant of bail.

4 The learned Additional Public Prosecutor appearing for the respondent raised objection stating that the petitioner is a college senior to the defacto complainant and he only invited the other accused to the defacto complainant's resident and subsequently the accused persons assaulted the defacto complainant and robbed his chain and also the other room mates' chain and escaped from the place. Therefore, whether the petitioner is involved in the offence directly or not, will come into light only after investigation. Hence, the petitioner is not entitled for bail.

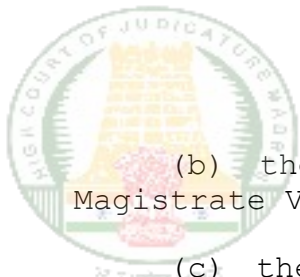
5 Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the respondent police and perused the materials placed on record.

6 A careful reading of the FIR clearly shows that the petitioner is not involved in the occurrence directly. The defacto complainant himself stated that the accused persons have threatened the petitioner also saying not to talk anyone. Even though, the petitioner was arrayed as A1, there is no specific overt act as against this petitioner. The defacto complainant clearly narrated the incident that the accused persons came into his room and forcefully robbed the chain from his friends and went to other rooms and threatened the room mates, but the defacto complainant does not say anything about the offence committed by the petitioner, which clearly proves that the petitioner is not directly involved in the offence.

7 Considering the above facts and also the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions;

8 Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.VII, Coimbatore District, 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 petitioner shall report before the learned Judicial Magistrate VII, Coimbatore, daily at 5.00 p.m. until further orders.

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

(d) the petitioner shall not abscond 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 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]*; and;

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

-sd/-

06/05/2022

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 JUDICIAL MAGISTRATE,
NO.VII, COIMBATORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

4 THE INSPECTOR OF POLICE,
KUNIAMUTHUR POLICE STATION,
COIMBATORE CITY.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.



6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.K.MADHU Advocate on payment of necessary charges
SR.No.6877

CRL OP.10801/2022

Date :06/05/2022

CSK 06/05/2022