



Crl.O.P.No.23541 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

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1. M.Vinoth
2. D.Vimal
3. S.Sridhar

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
K-8, Arumbakkam Police Station,
Arumbakkam, Chennai – 600 106.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to release the petitioners on bail imposing any condition, in Crime
No.310 of 2022, on the file of the respondent Police.

For petitioners : Mr.H.Manivannan for
M/s.Victory Law Associates
For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

The petitioners, who were arrested and remanded to judicial
custody on 11.09.2022, for the offences punishable under Sections 406, 420



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& 392 of IPC, in Crime No.310 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Shiyamkumar is that the he is a relative of one Anandharaj, who acted as a carrier and smuggled gold worth about Rs.15 lakhs from Dubai. He needed help of the defacto complainant to clear the parcel from the Airport Authorities. The Defacto complainant had in turn asked the petitioners to help to clear the parcel from the Airport and at his request, the petitioners had aided the defacto complainant to clear the parcel from the Airport. Subsequently, they reached the police quarters at Adyar and they have opened the parcel and that they found only a microwave oven was in the parcel. Subsequently, when they were having tea in a shop, the 1st petitioner had taken away the microwave oven from them and thereafter, when they stayed in a hotel, some persons had come and attacked Anandharaj, asking the gold in the microwave oven, which was smuggled by them. Then only the defacto complainant and his friend came to know that the gold was hidden in the coil of the microwave oven and later he came to know that the petitioners



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had cheated him by snatching microwave oven, which contained the smuggled gold valuing at Rs.15 lakhs. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are friends of one Shiyamkumar and the said Shiyamkumar had informed them that his relative one Anandharaj was coming from abroad and he was bringing cell phones and he was needed to sell them at Airport. Believing that, the petitioners have accompanied Shiyamkumar to the Airport and had helped Shiyamkumar and his relative to get back to the City. Later, they came to know that the said Anandharaj was a carrier and he has carried gold on behalf of some persons and he has misappropriated the same. When it was questioned by the petitioners, there was a quarrel and he had pushed the the petitioners saying that the petitioners are the persons who had taken away the gold. He would also submit that the 1st petitioner is working in a company, the 2nd petitioner is a Police Constable and the 3rd petitioner is working as a driver in Tamil Nadu Civil Supplies Corporation and they do not have any criminal background, whereas, based on the complaint given by the defacto complainant that the petitioners have



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taken gold from the microwave oven in which the alleged gold was stated to have been smuggled, the respondent police had implicated them in this case.

4. He would further submit that the respondent have conducted a search in the house of the 2nd petitioner and the 2nd petitioner's wife was made to pledge her jewels and an amount of Rs.4 lakhs was received and it was shown as recovered. He would also state that the petitioners are in custody from 09.09.2022 and they were remanded to judicial custody on 11.09.2022. He would further state that the petitioners understands that the entire gold which was alleged to be smuggled by the said Anandharaj has been recovered in the guise of investigation and the major part of the investigation is also over and the 2nd and 3rd petitioners are being Government Servants and they are also prepared to furnish adequate security and also abide by any stringent conditions that may be imposed by this Court. Therefore, he prays for grant of bail to the petitioners.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the defacto complainant is the relative



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of one Anandharaj and the said Anandharaj acted as a carrier for some smuggler. He would also submit that he had carried gold concealed in a microwave oven and the petitioners coming to know about the same had robbed the smuggled gold from the said Anandharaj. He would further submit that later the said Anandharaj was taken by the smuggler and they were detained him in a room and they were beaten black and blue and based on the complaint given by the said Anandjaraj, a case in Crime No.306 of 2022 was registered. He would further state that only during the course of investigation, it came to light that the petitioners are the persons who have taken away the smuggled gold and thereby, the present case has been registered. He would also state that though, the gold has been recovered, the investigation is pending. Therefore, he vehemently opposed to grant bail to the petitioners.

6. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) and perused the materials available on record.

7. Taking into consideration the facts and circumstances of the



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case, the submissions made by the learned counsel and that the alleged contraband has been recovered and the major part of the investigation is over and also the fact that the 2nd and 3rd petitioners are being Government servants and that they have no previous antecedence, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on their executing a separate 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 V Metropolitan Magistrate Court, Chennai**, 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



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during investigation or trial;

[d] the petitioners shall not tamper with 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]*;

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

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To

1. The V Metropolitan Magistrate Court, Chennai.
2. The Inspector of Police,
K-8, Arumbakkam Police Station,
Arumbakkam, Chennai – 600 106.
3. The Superintendent,
Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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