



Crl.O.P.No. 23710 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

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

Crl.O.P.No.23710 of 2022

Siddalingam

... Petitioner

Vs.

The Inspector of Police,
Pallapatty,
Salem District.
(Crime No.419 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the Petitioner on bail in connection with the case in Crime
No.419 of 2022 pending investigation on the file of the Respondent police.

For Petitioner : Mr.S.Premakumari

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER



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The petitioner, who was arrested and remanded to judicial custody on 27.08.2022, for the offences punishable under Sections 294(b), 392 r/w 397, 506(ii) of IPC, in Crime No.419 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that on 27.08.2022 at about 07.00 p.m., when he was waiting for Bangalore bus at Salem New Bus stand, the petitioner, who is a transgender in the guise of taking alms, had threatened the defacto complainant by brandishing a knife and taken away a sum of Rs.650/- from him and threatened him with dire consequences.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a transgender and that the petitioner was in the habit of taking alms from the persons in the bus stand and in order to curtail the activities of the petitioner, a false complaint has been registered as against the petitioner. He would also submit that the petitioner has also filed an affidavit of undertaking before this Court stating that he will not indulge in any



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criminal activities herein after. He would further submit that the petitioner is also ready and willing to join the mainstream of the society by availing the welfare schemes of the Government.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the petitioner is a transgender and he is in the habit of taking alms from the persons and used to commit robbery by threatening them with knife. He would also submit that there are two previous cases as against him and out of which, one case is of similar nature. Therefore, he vehemently opposed to grant bail to the petitioner.

5. At this juncture, in reply, learned counsel appearing for the petitioner would submit that the petitioner like other transgender is kept away from the society and for livelihood, he is indulging in taking alms and the respondent is filing cases against him. He would also submit that the affidavit of undertaking given by the petitioner may be taken into consideration and bail may be granted to the petitioner.



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

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and the period of incarceration suffered by the petitioner and also the affidavit of undertaking given by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his 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.II, Salem**, 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 respondent police, daily at 10.30 a.m., until further



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orders;

[c] the petitioner shall not abscond either during investigation or trial;

[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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Judicial Magistrate No.II, Salem.
2. The Inspector of Police,
Pallapatty,
Salem District.
3. The Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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