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Crl.O.P.No.23810 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

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

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1.Dinesh

2.Naveen Kumar

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai District.
(Crime No.306 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to release the petitioners on bail in connection Crime No.306 of
2022, pending on the file of the respondent Police, pending investigation.

For Petitioners : Mr.P.Muthamizh Selvakumar

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

ORDER

The petitioners, who were arrested and remanded to judicial
custody on 09.09.2022, for the offences punishable under Sections 294(b),



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323, 324, 343, 384, 427, 506(ii) of IPC in Crime No.306 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Anandharaj is that he was employed at Dubai and some persons have handed over a microwave oven to him to transport it to India. On the assurance that a sum of Rs.10,000/- will be paid to him, the defacto complainant had unknowingly brought the same. Whereas, the microwave oven was taken away by one Vinoth and two days later, some persons to whom the defacto complainant has to hand over the microwave oven had kidnapped him and taken him to a lodge and assaulted him and then only he came to know that the gold was concealed in the microwave oven and that it was taken away by Vinoth and that they have assaulted him, the petitioner had given a complaint and a case in Crime No.306 of 2022 has been registered. Subsequently, the respondent police coming to know that the gold was taken away by Vinoth, another case in Crime No.310 of 2022 was also registered.



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3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they are the drivers of A1 and A2. He would also submit that A1 and A2 have relatives in Dubai and they have sent the microwave oven through the defacto complainant Anandharaj, whereas, he had without the knowledge of the petitioners, concealed the gold and brought it and the microwave oven was taken by Vinoth and when the petitioners questioned about the same, a false complaint has been given as against them. He would also state that the petitioners are not at all aware of the concealment of the gold in the microwave oven and the petitioners were arrested on 09.09.2022 and they are in custody. He would further state that the petitioners are poor drivers and there is no previous cases as against them. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioners are the drivers of one Hidayathullah, and the said Hidayathullah had engaged the services of Anandharaj for smuggling gold from Dubai. He would further submit that Vinoth, who is the other accused in Crime No.310 of 2022, coming to know



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about the smuggling of gold, had snatched the microwave oven and that the petitioners and A1 suspecting that the defacto complainant had colluded with the said Vinoth, had taken him to a room and assaulted him brutally, resulting in him sustaining injuries. He would further state that based on the complaint given by the defacto complainant, a case in Crime No.306 of 2022 was registered. Later, on the complaint given by Shiyam Kumar, who is the relative of the defacto complainant, a case in Crime No.310 of 2022 was registered. He would also submit that the gold has been recovered from the custody of A2 in Crime No.310 of 2022. He would further submit that the investigation is pending. Therefore, he vehemently opposed to grant bail to the petitioner.

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 that the petitioners



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are drivers of the main accused and the gold has been recovered and that the other accused have also arrested and there is no previous case as against the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

7. 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 Metropolitan Magistrate Court No.V, Egmore**, 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 during investigation or trial;



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[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.

30.09.2022

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To

1. The Metropolitan Magistrate No.V, Egmore.
- 2.The Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai District.
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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