



Crl.O.P.No. 24850 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

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

Crl.O.P.No. 24850 of 2022

M.Thalapathy

... Petitioner

Vs.

The State of Tamilnadu,
Rep. by the Sub Inspector of Police,
Kitchipalayam Police Station,
Salem City.
(Crime No.274 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the Petitioner/Accused No.2 on bail, pending investigation
of the case in the Crime No.274 of 2022 on the file of the Respondent.

For Petitioner : Mr.Charles Kamalesh M.Appaji

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 08.09.2022, for the offences punishable under Sections 341, 392 & 397 of IPC, in Crime No.274 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Dayalan is that the petitioner along with the other accused waylaid him and by brandishing a knife, had robbed an amount of Rs.780/- from him. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false complaint has been foisted by the respondent police. He would also submit that the respondent police had earlier registered a case against the petitioner in Crime No.286 of 2021 for the offences punishable Section 307 of IPC and the respondent police had summoned the petitioner to come to the Police Station, since, the petitioner did not go to the Police Station, a case has been foisted as against the petitioner. He would further submit that very reading of the FIR would



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show that it is a foisted case for offence of robbery and even as per the FIR, the defacto complainant and the accused are known to each other. He would also state that other than the previous case in Crime No.286 of 2021, the petitioner does not have any other cases as against him. He would further state that the petitioner is aged about 22 years and he is in custody from 08.09.2022. 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 petitioner along with the other accused way laid the defacto complainant and robbed a sum of Rs.780/- and only part of the amount has been recovered. He would also submit that the accused and the defacto complainant are known to each other. Hence, 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 including the FIR.

6. Taking into consideration the facts and circumstances of the case



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and the submissions made by the learned counsel, 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.25,000/- (Rupees Twenty Five thousand only)** each with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate-2, 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., and 05.30 p.m., until further 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,



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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.

14.10.2022

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To

1. The Judicial Magistrate-2, Salem.
2. The Sub Inspector of Police,
Kitchipalayam Police Station,
Salem City.
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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