



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.4.2023

Delivered on : 13.4.2023

CORAM

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

Crl.O.P. Nos.6518 and 6519 of 2023

Crl.O.P.No.6518 of 2023

1. Jubin Baby
2. Mariya
3. Biju
4. Ayyappan
5. Muthumari
6. Gopinath
7. Sathish

Petitioners

vs.

State rep. by
Station House Officer,
CBCID North, Villupuram
Crime No.2/2023
FIR No.31/2023 registered by
the Kedar Police Station.

Respondent

Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioners / Accused A1 to A7 on Bail pending investigation by the respondent CBCID police in Crime No.02/2023 and FIR No.31/2023 registered by the Kedar police Station.

Crl.O.P.No.6519 of 2023

1. Jubin Baby



2. Mariya

Petitioners

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vs.

State rep. by
Station House Officer,
CBCID North, Villupuram
Crime No.3/2023
FIR No.32/2023 registered by
the Kedar Police Station.

Respondent

Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioners / Accused A1 and A2 on Bail pending investigation by the respondent CBCID police in Crime No.03/2023 and FIR No.32/2023 registered by the Kedar police Station.

For Petitioners : Mr.R.Prabhakaran

For Respondent : Mr.C.E.Pratap, Govt. Advocate

COMMON ORDER

Criminal Original Petition No.6518 of 2023 has been filed by the petitioners/A1 to A7 in Crime No.2 of 2023 on the file of CBCID, North, Villupuram (FIR No.31 of 2023 registered by Kedar Police Station, Villupuram) seeking bail pending investigation in respect of the offences punishable under Sections 147, 148, 342, 344, 294(b), 323, 324, 326, 366, 376(ii)(d) and 506(ii) IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2. Criminal Original Petition No.6519 of 2023 has been filed by



the petitioners/A1 and A2 in Crime No.3 of 2023 on the file of CBCID, North, Villupuram (FIR No.32 of 2023 registered by Kedar Police Station, Villupuram) seeking bail pending investigation in respect of the offences punishable under Sections 344, 294(b), 354(A), 370(3), 374, 326, 323, 324 IPC read with Sections 89, 92(b) and 92(c) of the Rights of Persons with Disabilities Act, 2016.

3. The factual aspects that gave rise to the filing of the present petitions, as could be elicited from the petitions seeking bail and the objection made thereon by the prosecution, in brief, are as under:-

i) On 14.12.2022, one Halideen sent a complaint though registered post to the Sub Inspector of Police, Kedar Police Station stating that his friend Salim Khan's Uncle Zafir Ullah was missing from Anbu Jothi Ashram. On the basis of such complaint, a man missing case in Crime No.231 of 2022 came to be registered.

ii) Subsequently, the said Halideen filed a Habeas Corpus Petition in HCP No.2576 of 2022 before this court, wherein, this court, considering the allegation that apart from Zafir Ullah around fifteen persons, who were transferred from Chennai to Bangalore have also gone missing, by order dated 2.1.2023, directed Respondent-Police therein to file a status report on 23.01.2023 and directed the Deputy Superintendent of Police, Gingee Sub Division to supervise the investigation in Kedar Police Station Cr.No.231/2022.



and later, directed for production of the third respondent who is the first petitioner herein 20.02.2023 by order dated 9.2.2023,

iii) On 20.02.2023 it was reported that the first petitioner herein was secured, however, produced before the jurisdictional Magistrate and confined to judicial custody and thereupon, the court had directed the Public Prosecutor to file a Report.

iv) When the the HCP was taken up on 27.2.2023, the prosecution had produced two photographs of inmates of the Ashram, who died subsequent to their escape for being identified by the relatives of Zafir Ullah, however, the case stood adjourned twice at the instance of the petitioner therein and accordingly, it stands adjourned to 6.6.2023.

v) Pending such proceedings in the Habeas Corpus Petition, on 10.2.2023 on the directions of the District Collector, Villupuram District, the Revenue Divisional Officer along with District Differently Abled Welfare Officer and District Social Welfare Officer conducted a Joint inspection at Anbu Jothi Ashram, Kundalapuliyur.

vi) During such inspection, it is alleged that two monkeys that were caged in the Ashram were let out and the same had bitten the authorities, who had gone for inspection and also some of the inmates including the first accused.

vii) One of the inmates/cook by name Riba @ Ribana made an allegation of assault and rape against the first accused. Some other inmates also made



allegation of torture at the hands of the accused.

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viii) On receipt of information from the Mundiampakkam Government Medical College and Hospital, the Sub Inspector of Police, Kedar PS went to the hospital and recorded the statement of one Riba @ Ribana, one of the inmates, who was admitted as inpatient at Mundiampakkam Government Medical College and Hospital and a case in Kedar PS Cr.No.31/2023 for offences punishable u/s 147, 148, 342, 344, 294 (b), 323, 324, 326, 366, 376 (2) (d) and 506 (2) IPC and Sec 4 of TNPHW Act 2002 was registered,

ix) On 12.2.2023, at 22.00 hours, Tr.C.Thangavel, District Differently Abled Welfare Officer preferred a complaint before the Sub Inspector of Police, Kedar Police Station, based on the inspection conducted at Anbu Jothi Ashram on 10.2.2023 and based on that complaint, a case in Kedar P.S.Cr.No.32 of 2023 for offences punishable under Sections 344, 294(b), 354(A), 370(3), 374, 326, 323, 324 IPC read with Sections 89, 92(b) and 92(c) of the Rights of Persons with Disabilities Act, 2016 was registered by the Sub Inspector of Police, Kedar Police Station and the Deputy of Superintendent of Police, Gingee Sub Division has taken up the investigation.

x) The petitioners were arrested and remanded on 14.2.2023. They have moved for bail before the Sessions Judge, Magalir Neethi Mandram (Fast Track Maila Court), Villupuram (FAC) by filing



Crl.M.P.Nos.1812, 1814 and 1816 of 2023, which came to be dismissed by the said court by order dated 4.3.2023. Hence, the petitioners have come up with the present petitions seeking bail.

4. The sum and substance of the arguments of Mr.R.Prabhakaran, learned counsel appearing for the petitioners is as under:-

i) The petitioners are innocents and they have no animus or mental intention to commit any offence alleged against the inmates in the Ashram and what they have been doing for the past about two decades is only taking care and providing medical relief to the destitute and mentally retarded people, who were wandering in the streets without proper care.

ii) The Ashram run by the petitioners is a non-Government organization with the noble intention of accommodating the poor people abandoned by their relatives, by providing food, shelter, medical care and arrange for their re-union with their families on their rehabilitation, which they have been doing tirelessly for more than two decades as a family. They have proper Fire Licence, Sanitary Licence, Building Licence in respect of the Trust Building. They have also



sought for Licence from the Commissioner of Rehabilitation of the Disabled, which is pending for compliance of certain discrepancies and irregularities pointed out by the authority.

iii) The petitioners have indulged in the charitable services only with humanitarian grounds and in order to serve the needy people at every nook and corner of the nation, where the scheme of Government organizations find it difficult to reach.

iv) People with disabilities and mental retardness hailing from northern region of the nation found in the vicinity of the Ashram and dropped by public or the police personnel were sent to other similar non-Government Organizations, after first aid, for their betterment and effective counselling in their regional language and one such large organization is Apna Ghar Ashram, Rajasthan. The petitioners have sent such inmates with language issues for proper care to the said Ashram, having entered into a tripartite Memorandum of Understanding with them and Institute of Mental Health, Kilpauk, Chennai.

v) The services rendered by the Ashram were recognized and appreciated immensely by the then Commissioner of Police and Honourable Ministers of Tamil Nadu.



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vi) However, all of a sudden, in furtherance of a complaint lodged for a man missing case, who was not at the hands of the petitioner/Ashram, but, from the an organization at Bangalore, where the said person was transferred for better care, the benevolent act of the petitioners were suspected and by mere propaganda, the reputation of the Ashram has been subjected to degeneration.

vii) The children of the petitioners intended to maintain the infant monkeys, who lost their mother in an accident and accordingly, they were brought to the Ashram long back, however, they were caged considering the security, when the authorities inspected the Ashram, some police personnel had opened the cage and left the monkeys loose and thereupon, the monkeys, having found the mob, got panicked and terrorized and had bitten some of them and in fact, they had bitten the first petitioner also and thus, there is no question of impelling the monkeys to terrorize anybody.

viii) The inmate Riba @ Ribana was working as Cook in the Ashram and she was very much present when the District Collector had inspected the Ashram and enquired the inmates about their health and safety, however, she had not made any allegation of rape or harassment at the hands of the petitioners and thereby the said



allegation levelled against the first petitioner by her after the inspection by the authority is nothing but, due to some inducement by the Authorities.

ix) The second petitioner is the wife of the first petitioner and they live in the same premises of the Ashram with their school going children and mother of the second petitioner. The other petitioners are employees of the Ashram. The petitioners have strong roots in the society and they will not run away from the clutches of law.

x) The petitioners were arrested and remanded to judicial custody on 14.2.2023 and almost for two months, they have been incarcerated. It is the case of the prosecution itself that all the inmates from the Ashram have been rescued, entire documents from the premises of the Ashram had been seized and the Ashram itself has been kept under lock and seal and thus, there is no question of the petitioners tampering with the evidence disentitling for grant of bail and therefore, they pray for their personal liberty pending disposal of the criminal proceedings.

5. To get a clear view of the case, the respondent was directed to file Status Reports and accordingly, the respondent had filed



separate Status Reports and objections for grant of bail. Pointing out the contents of the same, Mr.C.E.Pratap, learned Government Advocate (Criminal Side) submission his arguments as under:-

i) On 11.2.2023, the inmates of Anbu Jothi Ashram, Kundalapuliur and Kottakuppam were rescued and admitted to Mundiampakkam Medical College and Hospital and on 13.2.2023, they were shifted to various Emergency Care Rehabilitation Centres/Homes as under:-

Sl. No.	Name of the Home	Number of inmates
1	Emergency Care Rehabilitation Centre, Kallakurichi	15
2	Emergency Care Rehabilitation Centre, Thiruvannamalai	11
3	St.Annai, Kallakurichi	15
4	OASIS, Cuddalore	23
5	St.Cluny, Gingee	20
6	Patient Direct Discharge to concerned relatives	34
7	Institute of Mental Health, Kilpauk, Chennai	28
8	Mundiampakkam Medical College	21
	Total	167

ii) The investigation revealed that the petitioners had indulged in detaining destitute/mentally ill people in the Ashram, assaulted and compelled them to do all sorts of work without any wages and without allowing them to go home, administered various restricted Psychiatric



Drugs on them invariably, sexually assaulted the female inmates, transferred the inmates to various Homes in the State and outside the State without adopting any Rules and impelled monkeys to bite the inmates to terrorize them even during inspection of the Ashram by the authorities.

iii) 132 inmates of Anbu Jothi Ashram are admitted at various ECRCS / Hospitals / Homes were examined. After getting mental fitness certificates from Psychiatrists, 52 were fit to be examined and statements of 52 inmates were recorded. Requisitions to the Collectors concerned / Deans of Villupuram, Thiruvannamalai, Kallakurichi, Madras Medical College and Hospitals and Joint Director, Cuddalore were given to constitute the medical team to examine the inmates. Material evidence will be obtained only after getting the report of the medical team.

iv) The bank statements of the petitioners / accused, Nalla Samariyar Charitable Trust and Anbu Jothi Ashram had been obtained and yet to be analyzed. Requisitions had been given to Bank Managers to obtain the details of Foreign fund transfer in the said accounts.

v) The previous transfer details of the inmates of Anbu Jothi Ashram prior to the incident have to be collected and their condition



has to be investigated, The antecedent of the accused has to be analyzed. Transfer of inmates to Apna Ghar Ashram, Bharathpur, Rajasthan, Home of Hope, Bangalore, St. Joseph Hospice, Pulichapallam, Anbu Illam, Panampattu, Anbu Nilayam, Reddiarpalayam, Buds of Heaven, Puducherry, Ignite Elders Home, Cuddalore OT, ECRC Villupuram, KR Pavithra Ashram, Bangalore, Snekalaya Home, Kanchankadu, Kerala and St. Joseph Hospice, Paleswaram have to be verified. The status of the persons missing have to be ascertained.

vi) Requisitions were sent to the Joint Director, Health Services, Cuddalore District, and Deans, Mundiampakkam Medical College and Hospital, Villupuram, Kallakurichi, Thiruvannamalai and Rajiv Gandhi General Hospital, Chennai to form medical team to conduct medical examination of inmates who were rescued from Anbu Jothi Ashram. Medical teams were formed at Villupuram and Cuddalore.

vii) Statement of Ms. Ribana has been recorded under Section 164 Cr.P.C., wherein she has made allegations of sexual assault and torture at the hands of the first petitioner.

viii) The preliminary investigation alone had revealed many offences committed by the petitioners leaving a very great impact on



the society and in the event of conducting investigation in depth, it would bring to light many truth and thereby, considering the gravity of the offences and the likelihood of the witnesses being tampered by the petitioners in the event of their coming out on bail, the petitions seeking bail have to be dismissed.

6. Mr.C.E.Pratap, the learned Government Advocate (Criminal Side), while reiterating the submissions in the Status Report, would submit that though there is no specific material available as of now in respect of the allegation of organ theft from the inmates, the investigation is pending.

7. Heard the learned counsel appearing for the parties and perused the materials available on record.

8. Admittedly, the petitioners are in jail for about two months from 14.2.2023 facing serious allegations of human trafficking, organ theft and sexual harassment to the female inmates under the guise of running Ashram for destitute/mentally retarded people. It is the case of the respondent police that considering the gravity of the offence



already alleged against the petitioners and the probability of more serious offences being alleged on further investigation, the petitioners are not entitled to grant of bail.

9. It is the settled principle that magnitude of the allegations cannot be a sole criterion for denial of bail. A perusal of the materials would disclose that the entire prosecution case commenced after issuance of directions in a Habeas Corpus Petition in respect of a missing person, who was admitted to the petitioner Ashram. Prior to that there was no issue at all. The Ashram has a history of atleast two decades, having been recognized by the Government authorities and appreciated by the Honourable Ministers of the State for rendering service to the destitute and mentally ill persons. No sexual harassment has been reported by any inmates prior to the inspection by the authorities though various authorities had inspected the Ashram in earlier point of time periodically. The petitioners have got all other permissions except appropriate licence from the Commissioner of Rehabilitation of the Disabled, which is also returned and pending for compliance of certain discrepancies and irregularities pointed out by the authority.



10. It is also the case of the respondent police that all the inmates of the Ashram have been rescued and sent to various Emergency Care Rehabilitation Centres/Homes, after getting mental fitness certificates from Psychiatrists, 52 were found fit to be examined and statements of those inmates were recorded. Requisitions to the Collectors concerned / Deans of Villupuram, Thiruvannamalai, Kallakurichi, Madras Medical College and Hospitals and Joint Director, Cuddalore were given to constitute the medical team to examine the inmates and the bank statements of the petitioners / accused had been obtained. Further, it the case of the respondent police is that during inspection, they had seized all the documents from the Ashram and the Ashram has been kept under seal.

11. The petitioners, who engaged themselves in doing some service to the society for the past two decades without any blemish, now face the ordeal on some suspicion and even after investigation for about two months during which the petitioners have undergone incarceration, the respondent police could not come out with concrete case and motive for the offences alleged against the petitioners. On mere suspicion of serious offences and surmises alone, the personal liberty, guaranteed by the statute as time and again reiterated by the



Apex Court and other High Courts, cannot be denied to the petitioners.

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12. In view of the above, this court is inclined to grant bail to the petitioner on certain conditions. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Sessions Judge, Magalir Neethi Mandram (Fast Track Maila Court), Villupuram (FAC)** 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 stay at Chennai and report before the Inspector of Police, CBCID Headquarters, Metro Wing, Guindy, Chennai, everyday at 10.30 a.m., for a period of four weeks and thereafter, on every Saturday at 10.30 a.m., until further orders;

[c] the petitioners shall not abscond either 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 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.

12. The Criminal Original Petitions are ordered accordingly.

13.4.2023.

Index: Yes/No.
Internet: Yes/No.
ssk.

To

1. The Station House Officer,
CBCID North, Villupuram.
2. The Superintendent,
District Jail, Villupuram.
3. The Superintendent,
Sub Jail for women, Cuddalore.
4. Dean,
Villupuram Medical College Hospital,
Villupuram.
5. The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA, J.

ssk.

P.D. ORDER IN
Crl.O.P. Nos.6518 & 6519 of 2023

Delivered on
13.4.2023