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Crl.O.P.No.7154 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

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

Crl.O.P.No.7154 of 2023

Raja M

... Petitioner

Vs.

State rep. by the
Inspector of Police,
Thirukoilur Police Station
Kallakurichi District.
(Crime No.27 of 2021)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.27 of 2021 pending
investigation on the file of the respondent police.

For Petitioner : Mr.P.Muthamizhselvakumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 20.02.2023, for the offences punishable under Sections 392, 397 of Indian
Penal Code, in Crime No.27 of 2021 on the file of the respondent police,
seeks bail.



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2. The case of the prosecution as per the defacto complainant Jothimani is that on 07.01.2021 the petitioner along with other accused trespassed into the house of the defacto complainant in the mid night at about 1.10 p.m., by covering their faces and by threatening the defacto complainant and his family members with deadly weapons, robbed 17 sovereigns of gold jewels, silver ornaments, mobile phone and a T.V. Hence, this case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. Even as per the prosecution, the defacto complainant has stated that some unknown persons who could be identified, had committed the offence. The petitioner was arrested on 10.12.2022 in another case registered by the Andhra Pradesh Police and he was taken into custody in this case through PT warrant on 20.02.2023 and despite the availability of the petitioner in the prison, the respondent police has not taken any steps so far to conduct the Test Identification Parade. He would further submit that the investigation has been completed and the respondent has already filed absconding charge sheet against the petitioner on 24.02.2023. Further the petitioner has got permanent residence and he is ready to abide by any stringent condition that



may be imposed by this Court and that the petitioner has been suffering incarceration from 20.02.2023. Hence, he would pray to grant bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent police opposed for grant of bail to the petitioner stating that it is a case of grievous offence wherein, the petitioner along with other accused trespassed into the house of the defacto complainant in the mid night by covering their faces and by threatening the defacto complainant and his family members with deadly weapons, robbed 17 sovereigns of gold jewels, silver ornaments, mobile phone and a T.V. Apart from this case, the petitioner has got 13 previous cases registered by Andra Pradesh police and the petitioner has been arrested and produced in this case through P.T. Warrant. On instructions, he further submitted that the petitioner has got permanent residence. However, he opposed for grant of bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that in most of the cases previous cases, the petitioner has been implicated only based on the confession recorded from the arrested accused and he has not been convicted in any of the cases. Hence, he would pray for grant of bail to the petitioner.



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

7. Taking into consideration the facts and circumstances of the case, the submissions made by either side of the parties and the fact that the investigation has been completed and the charge sheet has also been filed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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)** with **two sureties out of which, one shall be a blood related surety**, for a like sum to the satisfaction of the **Judicial Magistrate Court, Thirukoilur**, 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 learned Judicial Magistrate, Thirukoilur, on all working days at 10.30 a.m. for a period of two weeks and thereafter, on the dates fixed by the learned Magistrate till committal. The petitioner shall also report before the respondent police every Saturday at 06.30 p.m. until further orders;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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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A.D.JAGADISH CHANDIRA,J.,

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To

1. The Judicial Magistrate, Thirukoilur.
2. The Inspector of Police,
Thirukoilur Police Station
Kallakurichi District.
3. The Jailer,
District Prison, Chittor, Andra Pradesh
4. The Public Prosecutor,
High Court of Madras.

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