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Crl.O.P.No.8616 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM

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

Crl.O.P.No.8616 of 2023

Khudrath Pasha

... Petitioner

Vs.

The State Rep. by
Inspector of Police,
Tiruvannamali Town Police Station,
Tiruvannamalai District.
(Crime No.31 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.31 of 2023 pending
investigation on the file of the respondent police.

For Petitioner : Mr.M.Sathish Kumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 21.02.2023, for the offences punishable under Sections 457, 380 IPC @
457, 380 & 436 IPC r/w Section 4 of TNPPDL Act, 1984, in Crime No.31 of
2023 on the file of the respondent police, seeks bail.



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2. The case of the prosecution as per the defacto complainant Md.Siddique who is the Channel Manager and representative of Hitachi Payment Services Pvt. Ltd. is that they were carrying on the business of deploying, installing and managing Automated Teller Machines (ATM), Cash Recycler Machines to carious PSU and private Banks Across region of India including the state of Tamil Nadu and that they had installed the ATM for State Bank of India at Mariamman Koil, 10th Street, Thiruvannamalai. On 12.02.2023, the said ATM machine was badly damaged including the Air Conditioner installed in the ATM Centre and Rs.20,02,000/- in the vault was found missing. Hence, the 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 allegation against the petitioner is that he helped the other accused in transferring the stolen cash. The prosecution states that the petitioner had received the stolen cash from the main accused and thereafter, transferred the amount to the account of the main accused by online deposit. Other than that there is no allegation against the petitioner as if, he caused damages to the ATM Machine and committed theft. He further submitted that the petitioner is native of Karnataka and he is ready to furnish



his proof of residence and ready to furnish sufficient sureties and that he has been in judicial custody from 21.02.2023. Hence, he would pray to grant bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed for grant of bail to the petitioner stating that there are totally 8 accused in this case. The accused had damaged the ATM Machine of State Bank of India and committed theft of Rs.20,02,000/-. Insofar as the petitioner is concerned, he received the stolen amount from the main accused and transferred the same to the account of the main accused through online transaction.

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

6. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions;



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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)** with **two sureties out of which one surety shall be a local surety and the other surety shall be a blood relative of the petitioner, each** for a like sum to the satisfaction of the **learned Judicial Magistrate No.1, Tiruvannamalai, Tiruvannamalai District**, 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 everyday at 10.30 a.m. for a period of two weeks and thereafter, on every Saturday at 10.30 a.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;



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[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.1,
Tiruvannamalai, Tiruvannamalai District.
2. The Inspector of Police,
Tiruvannamali Town Police Station,
Tiruvannamalai District.
3. The Superintendent,
Central Prison, Vellore, Vellore District
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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