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Crl.O.P.No.9187 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

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

Crl.O.P.No.9187 of 2023

Nijammuddin

... Petitioner

Vs.

State Represented by
The Inspector of Police
Kalasapakkam Police Station
Tiruvannamalai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to grant bail to the petitioner pending investigation in Crime No.47
of 2023 on the file of the respondent herein.

For Petitioner : Mr.R.Rafi Babu

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 16.03.2023, for the offences punishable under Sections 457, 380 @ 457,
380 and 436 of IPC and Section 4 of TNPPDL Act, in Crime No.47 of 2023
on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with



other accused had broken the ATM at Anna Nagar, Kalasapakkam at midnight and committed theft of Rs.2,40,400/- and mischief by fire with intent to destroy the ATM and caused damage. Hence the case.

3. Learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely roped in this case. He would further submit that the similarly placed co-accused namely Afsar Hussain/A10 has granted bail by this Court in Crl.O.P.No.6688 of 2022 by order dated 27.03.2023 and that the petitioner has been suffering incarceration from 16.03.2023. He further submitted that the petitioner is ready to abide by any stringent condition that may be imposed by this Court and hence, he prays for grant of bail to the petitioner.

4. Learned Government Advocate (crl.side) would vehemently oppose for grant of bail to the petitioner stating that it is the case where the petitioner along with other accused have caused damage to the ATM machines and robbed an amount of Rs.2,40,400/- at Anna Nagar, Kalasapakkam. However, he would fairly concede that the co-accused has been granted bail by this Court by order dated 27.03.2023.

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. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side and the fact that the



similarly placed co-accused has been granted bail by this Court and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant of 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.20,000/- (Rupees Twenty Thousand only) with two sureties** each for a like sum to the satisfaction of the learned **District Munsif cum Judicial Magistrate, Kalasapakkam, 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 stay at Tiruvannamalai Town and report before the Inspector of Police, Tiruvannamalai Town Police Station, daily twice i.e. at 10.30 a.m and 6.30 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;



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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.

26.04.2023

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To

1. The District Munsif cum Judicial Magistrate, Kalasapakkam,
Tiruvannamalai District.
2. The Inspector of Police,
Kalasapakkam Police Station, Tiruvannamalai.
3. The Inspector of Police,
Tiruvannamalai Town Police Station
4. The Superintendent, Central Prison, Vellore
5. The Public Prosecutor, High Court of Madras.

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