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Crl.O.P.No.11037 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

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

Crl.O.P.No.11037 of 2023

1.Diwagar
S/o.Subbiah

2.Kannaiya
S/o.Subbiah

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
B1, Bazaar Police Station,
Coimbatore District.

(Crime No.34 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners/accused on bail, in connection with the
Crime No.34 of 2023, pending investigation on the file of the respondent
Police.

For Petitioners : Mr.R.Radha Pandian

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



Crl.O.P.No.11037 of 2023

WEB COPY

ORDER

The petitioners, who were arrested and remanded to judicial custody on 10.02.2023, for the offences punishable under Sections 392, 397 and 506(ii) of IPC, in Crime No.34 of 2023 registered on the file of the respondent police, seek bail.

2. The case of the prosecution as per the *defacto* complainant is that the accused joined together and by threatening her at knife point, robbed four sovereigns of gold chain from her and ran away from the scene of occurrence. Hence the case.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that originally, the petitioners along with two wives of the first petitioner were arrested in some other case and subsequently, they were formally arrested in this case. He also submitted that despite the completion of 90 days, the respondent Police has not filed the charge sheet till date, therefore the petitioners are also entitled for statutory



Crl.O.P.No.11037 of 2023

bail. He further submitted that the petitioners are also ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners are habitual offenders, against whom 9 previous cases are pending. He further submitted that as far as this case is concerned, the petitioners along with other accused had robbed four sovereigns of gold chain from the de-facto complainant, at knife point. He also submitted that investigation in this case has been completed and the final report is yet to be filed. However, he vehemently opposed for grant of bail to the petitioners.

5. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking



CrI.O.P.No.11037 of 2023

note of the period of incarceration undergone by the petitioners and non filing of the final report, this Court is inclined to grant bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing separate bond each 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 Judicial Magistrate No.V, Coimbatore**, 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 report before respondent police everyday at 09.00 a.m. and 6.30 p.m., until further orders;

[d] the petitioners shall not abscond either during investigation or trial;

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take



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Crl.O.P.No.11037 of 2023

appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***;

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

05.06.2023

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To

1. The Judicial Magistrate No.V,
Coimbatore.
2. The Inspector of Police,
B1, Bazaar Police Station,
Coimbatore District.
3. The Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.11037 of 2023

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.11037 of 2023

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