



Crl.O.P.No.607 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.607 of 2024

Sadham @ Sadham Khan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Tiruvannamalai 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/accused on bail, in connection with the
Crime No.31 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr.S.Santhosh
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.10.2023, for the offences punishable under Sections 457, 380 of IPC @ 457, 380, 436, 212 of IPC and Section 4 of TNPPDL Act @ 109, 120(B), 212, 380, 414, 436, 457 of IPC and Section 4 of TNPPDL Act in Crime No.31 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant, Shri.G.Siddique, is that he was working as a Channel Manager cum Authority Officer of Hitachi Payment Services Private Limited and that his agency is in charge of ATMs belonging to the State Bank of India. On 12.02.2023, some unknown persons broke open the SBI ATM situated at Mariyamman Kovil Street, Tiruvannamalai, and robbed Rs.20,02,000/-. Thereby, he lodged a complaint before the respondent police, based on which, a case came to be registered by the respondent police in Crime No.31 of 2023 for the offence under Sections 457 and 380 of IPC. During the course of the investigation, finger prints were collected from the scene of occurrence and later, the case was altered to the offence under Sections 457, 380, 436, 212 of IPC and Section 4 of TNPPDL Act @ under Section 109, 120(B), 212, 380, 414, 436, 457 of IPC and Section 4 of TNPPDL Act. Hence the present petition.



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3. Learned Counsel appearing for the petitioner submitted that the petitioner (A10) is an innocent person and he had been falsely implicated in this case. He further submitted that the petitioner was arrested on 20.10.2023, and despite the lapse of 90 days, the respondent police have not filed the final report, and thereby, as per Section 167(2) of Cr.P.C., the petitioner is entitled to mandatory bail. He further submitted that this Court has already granted bail to the co-accused in this case. He also submitted that the petitioner is prepared to abide by any stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.

4. An elaborate counter affidavit was filed on behalf of the respondent police, furnishing the action taken by the respondent and enlisting the previous cases pending against the petitioner.

5. Pointing out the contents of the counter affidavit, learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner, who is a native of Haryana, along with other accused, caused damage to the ATM centres, broke up the SBI ATM situated



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at Mariyamman Kovil Street, Tiruvannamalai, and robbed Rs.20,02,000/-. He further submitted that, apart from this case, the petitioner has involved himself in 14 other cases of similar nature which have been registered in the states of Andhra Pradesh and Karnataka. He further submitted that the petitioner has been arrested in two other cases, viz., Crime No.47 of 2023 registered by Kalasapakkam Police Station (TN) for the offences under Sections 457 and 380 of IPC and Crime No.57 of 2023 registered by Polur Police Station (TN) for the offences under Sections 457 and 380 of IPC on 20.11.2023.

6. Learned Government Advocate (Crl.Side) appearing for the respondent police further submitted that the present case in Crime No.31 of 2023 was originally registered for the offences under Sections 457 and 380 of IPC and later altered to Sections 457, 380, 436, 212 of IPC and Section 4 of TNPPDL Act @ under Section 109, 120(B), 212, 380, 414, 436, 457 of IPC and Section 4 of TNPPDL Act. However, he fairly conceded that, as far as the case in Crime No.31 of 2023 is concerned, the respondent Police did not file the final report, despite the lapse of 90 days. He further submitted that the petitioner is a native of Haryana, involved in crimes and several cases were



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registered. However, by granting bail to the petitioner, there is the possibility of escaping from the clutches of law. He further submitted that, as far as other cases are concerned, he was arrested on 10.11.2023, and the investigation is still pending.

7. He further submitted that this Court has already granted bail to some of the co-accused in this case and the allegations against them is that they have, without having knowledge of the offences committed by the main accused, had harboured them after the offence. He also submitted that as far as this petitioner is concerned, he is one of the main accused who have been involved in the offence of burglary by causing damage to the ATM machines and committing theft of cash from the ATM machines and if the petitioner is granted bail, there is every possibility of him escaping from the clutches of law. Apart from that the petitioner is also involved in offences in the states of Andhra Pradesh and Karnataka and hence, he objects for grant of bail to the petitioner.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire



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materials available on record.

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9. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side, and also considering the fact that even though the petitioner is stated to have been involved in several cases of serious nature since the charge sheet has not been filed by the respondent Police in the present case despite the lapse of 90 days, the petitioner is entitled to mandatory bail under Section 167(2) of Cr.P.C. Therefore, this Court is inclined to grant bail to the petitioner with certain conditions.

10. 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 should be a blood related surety), each for a like sum to the satisfaction of the **learned Judicial Magistrate-I, Tiruvannamalai**, 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



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Bank pass Book to ensure their identity;

[b] the petitioner shall report before the respondent Police, everyday at 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;

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

23.01.2024

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A.D.JAGADISH CHANDIRA.,J.

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To

1. The Judicial Magistrate Court No.I,
Tiruvannamalai.
2. The Inspector of Police,
Tiruvannamalai Town Police Station,
Tiruvannamalai District.
3. The Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.

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