



Crl.O.P.No.4070 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.4070 of 2024

Sadham @ Sadham Khan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Polur Police Station,
Tiruvannamalai District.

(Crime No.57 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.57 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 10.11.2023, 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.57 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 up the SBI ATM situated at No.95/A, Railway Station Road, Polur, Tiruvannamalai District and robbed Rs.19,22,700/-. Thereby, he lodged a complaint before the respondent police and based on which, a case came to be registered in Crime No.57 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



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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 case.

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 earlier arrested in connection with Crime Nos.31 and 32 of 2023 registered by the Tiruvannamalai Town Police Station, Tiruvannamalai, on 20.10.2023 and later, based on his confession, he was formally arrested in the present case on 10.11.2023. He further submitted that this is the second application for bail filed by the petitioner before this Court and also stated that he has been granted bail by this Court with respect to Crime Nos.31 and 32 of 2023 in Crl.O.P.Nos.607 & 608 of 2024 vide orders dated 23.01.2024.

4. He further submitted that the petitioner was arrested in this case on 10.11.2023, and despite the lapse of 90 days, the respondent police have not filed the final report so far, and thereby, as per Section 167(2) of Cr.P.C., the petitioner is entitled to mandatory bail. He also submitted that this Court



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has already granted bail to the co-accused in this case. He further 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.

5. 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 at No.95/A, Railway Station Road, Polur, and robbed Rs.19,22,700/-. He further submitted that the petitioner was earlier arrested in Crime Nos.31 and 32 of 2023, registered by the Tiruvannamalai Town Police Station, Tiruvannamalai, on 20.10.2023 and he was formally arrested in the present case on 10.11.2023.

6. He further submitted that the petitioner is the main accused, who has been involved in the similar offence of burglary by causing damage to the ATM machines and committing theft of cash from the ATM machines and further, apart from this case, the petitioner has involved himself in 14 other cases of similar nature which have been registered in the states of Tamil Nadu, Andhra Pradesh and Karnataka.



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7. The learned Government Advocate (Crl.Side) further submitted that the investigation in this case is still pending and the final report has not been filed, despite the lapse of 90 days. However, if bail is granted to the petitioner, there is every possibility of the petitioner escaping from the clutches of law. Hence, he vehemently opposed 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 materials available on record.

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 statutory bail mandated under Section 167(2) of Cr.P.C. Therefore, this Court is inclined to grant bail to the petitioner with certain conditions.



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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 blood sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Polur, 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 Bank pass Book to ensure their identity;

[b] the petitioner shall report before the Inspector of Police, Tiruvannamalai Town Police Station, Tiruvannamalai, everyday at 6.30 p.m., until further orders;

[c] the petitioner shall also appear before the learned Magistrate concerned on all hearing dates, without fail;

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

[e] the petitioner 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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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]***;

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

28.02.2024

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To

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



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A.D.JAGADISH CHANDIRA.,J.

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