

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/11/2020

PRESENT

The Hon'ble Mr.Justice S.M.SUBRAMANIAM

CRL OP (MD) . Nos.12506,12507,12508,12510
and 12511 of 2020

1. Deepak
2. Naveen

... Petitioners/Accused No.1&2
in all petitions

Vs

The State Rep. by
The Inspector of Police,
Sellur Police Station,
Madurai City.

Crime No.2255 of 2020
Crime No.2253 of 2020
Crime No.2252 of 2020
Crime No.2251 of 2020
Crime No.2170 of 2020

... Respondent/Complainant
in Crl.OP (MD) No.12506/2020
in Crl.OP (MD) No.12507/2020
in Crl.OP (MD) No.12508/2020
in Crl.OP (MD) No.12510/2020
in Crl.OP (MD) No.12511/2020

(In all petitions)

For Petitioners : M/s.K.Kevinkaran,
Advocate.

For Respondent : Ms.M.Ananthadevi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

COMMON PRAYER :-

For Bail in Crime No.2255,2253,2252,2251 and 2170 of 2020 on
the file of the Respondent Police

COMMON ORDER : The Court made the following order :-

The petitioner/A1 and A2 who were arrested and remanded to
judicial custody on 16.09.2020, 16.09.2020, 11.09.2020, 16.09.2020
and 16.09.2020 respectively for the offences punishable under
Sections 379 of IPC on the file of the respondent police seek bail.

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<http://www.judis.nic.in> The case was registered against the petitioners for the
offence under Section 379 of IPC.

3. The learned counsel for the petitioners states that the petitioners during the pandemic situation was in unemployment and the police have foisted false case against the petitioners, in view of the fact that the petitioners were wandering to secure job. He was unnecessarily booked in a criminal case.

4. The learned Government Advocate (crl. side) vehemently opposed by stating that the petitioners involved in the crime and they have stolen five two-wheelers during the month of August and September 2020. Thus, five cases were registered against the petitioners. During investigation, the police came to understand that the first petitioner was working as a Hotel server and the second petitioner was working as Auto driver and both together had involved in steeling two-wheelers in various places. All the stolen vehicles were recovered and investigation has also completed.

5. This Court is of the considered opinion that protection of life and personal liberty is ensured under Article 21 of Constitution of India. Protection of life includes decent life which is contemplated. Right to life under Article 21 of Constitution of India is not a mere animal life and it is a decent life which is to be preserved. COVID-19 is an unfortunate situation, wherein large number of young men and women lost their employment. In the present case, the first petitioner was working as a Hotel server and due to the closure of business, he would have probably involved. However, the facts are to be established during the course of trial. Considering the probable circumstances and the problems of unemployment which are the dominating factors to be considered for grant of bail in such cases.

6. By keeping this kind of persons inside the jail for longer duration would be detrimental not only to the individual, but also to the society at large. In our great nation has largely adopted the theory of reformation. Detention is not a preferable concept and only an extraordinary and exceptional circumstances, the persons are to be detained for a longer period. Keeping the said accused under detention for a longer period would further corrupt their mind and they will be tempted to commit further crime in their life. Thus scheme of reformation and opportunity to correct themselves are also to be provided by the Courts enabling the society to understand the ordinariness to be maintained in the society for the well being of all the citizens of our great nation.

7. Detention is not supposed be punitive or preventive. The Courts cannot allow the accused to remain in jail for long years which may amount to punishment. Thus, the pre-trial accused have got right for bail and by keeping themselves in judicial custody for longer time is not preferable in ordinary circumstances. However, any such accused is dangerous or detrimental to the society at large, then this Court has no option but to decline bail to those accused. All these dominating factors are to be considered while

granting bail and the conditions of these accused are also be looked into with reference to the prevailing situation in the society. Because of COVID-19 many persons are suffering and the agony is unexplainable. In these circumstances, this Court is of the considered opinion that the petitioners are to be released on bail, however, certain conditions are required to be imposed in order to avoid further idea of the accuseds for developing the criminalistic mind.

8. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioners subject to the following conditions:

9. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two blood sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.VI, Madurai

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioners are directed to be present before the respondent police every day at 10.00am., and stay there upto 12.00 noon., and thereafter from 7.00 pm., to 9.00 pm., for a period of two weeks and thereafter the petitioners are directed to appear before the respondent police daily at 10.00 a,m until further orders.

iii) the petitioners shall not tamper with evidence or witness.

iv) the petitioners shall not abscond during trial.

v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

09/11/2020

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/ /2020

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE No.VI, MADURAI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE INSPECTOR OF POLICE,
SELLUR POLICE STATION,
MADURAI CITY.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN

CRL OP (MD) Nos.12506,12507,12508,
12510 and 12511 of 2020

Date :09/11/2020

AAV

TE/JC/SAR-II : 10/11/2020 : 4P/6C

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