

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE COURT, TIRUCHIRAPPALLI.
Present Thiru: K.Balasubramanian, B.Sc., M.L., D.L.T.,

Chief Judicial Magistrate (FAC),
Tiruchirappalli

Thursday the 25th day of January 2018

Criminal Miscellaneous Petition 138/2018

-in-

CBI, SCB, Chennai PS Cr.No.1(S)/2016

Shri Gideon Jacob
S/o Shri Abraham Jacob

.. ..petitioner/Accused-3

State of Tamil Nadu rep. by
Inspector of Police,
CBI, SCB, Chennai

/Vs/

..Respondent/Complainant

Petition dated 25.01.2018 filed u/s. 167(2)(a)(i) of Cr.P.C. praying to enlarge the grant statutory bail for the petitioner / accused-3.

This petition coming on this day 21.08.2017 for hearing before me in the presence of Thiru.K.Samidurai, Counsel for the petitioner/Accused-3 and Special Public Prosecutor for the State and up on hearing the arguments of both sides, this court passes the following . . .

ORDER

1) Averments in the petition:

The petitioner/Accused was arrested on 27.10.17 and remanded to judicial custody on 28.10.17 for the alleged offences under section 120(B) r/w 361, 368, 201, 370 and 370A of IPC Section 34 r/w 33 and 81 of the Juvenile Justice(Care and Protection of Children) Act 2015 and section 20 r/w 6 of Tamil Nadu Hostels and Homes for Women and Children(Regulation) Act 2014. The petitioner is co-operating with the respondent in the investigation of this case and has attended the enquiry on 26.10.17 and 27.10.17. The petitioner is in judicial custody for the past 90 days and the respondent has not filed the charge sheet till date. Hence the petitioner is entitled for the Statutory bail as per the provisions of section 167(2) (a)(i) of Cr.Pc., The petitioner is 62 years old and is seriously suffering from various

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ailments and he is under continuous treatment and he has not committed any such offences as alleged by the prosecution side. The petitioner will not abscond or tamper with the witnesses. The petitioner is ready to furnish substantial sureties as directed by this court. If the petitioner is not released on bail, he will be put in to irreparable loss and hardship. Hence it is prayed that this court may be pleased to enlarge the petitioner/accused on Statutory bail. Hence this petition.

2) Averments in the counter :

The learned Public Prosecutor has submitted that this Hon'ble Court dismissed the Bail petition filed by the accused on 1.11.17 and given police custody of the accused Gideon Jacob (A-3) for 5 days from 1.11.17 to 6.11.17 and during police custody, the accused was interrogated and his statements were recorded. The accused was also confronted with the crucial witnesses and documents/materials including the letters seized from his premises revealing affairs with women. However, due to the non-co operative nature of accused Gideon Jacob, the information/evidence within his exclusive knowledge could not be elucidated. Hence, Shri Gideon Jacob (A-3) was produced before this Hon'ble Court on 16.11.17 after his police custody and remanded to judicial custody. The bail petition filed by the accused Gideon Jacob before the Hon'ble Principal District and Sessions Judge, Trichy in C.M.P.No.3774/17 and was dismissed on 17.1.17 and the bail petitions filed before the Hon'ble High Court of Judicature Madurai Bench in Crl.O.P.No.15909 of 2017 and Crl.O.P.No.17112 of 2017 were also dismissed on 28.11.17 and 5.1.2018 respectively.

It is objected for this petition due to if the petitioner/accused is enlarged on bail as he has not surrendered or committed in his bail petition to surrender his passport, there is every possibility of him to abscond Germany or any other foreign country and may not be available for investigation in future, under this crucial stage and if the petitioner/accused-3 is enlarged on bail, there is every likelihood of him to tamper with the crucial evidence and destroy vital documents and materials connected to the case and if the petitioner/accused is enlarged on bail, there is every possibility of him to influence and win over the witnesses especially the inmates of M/s. Mose Ministries and intrude with the investigation at this crucial point of time and if the petitioner/accused-3 is enlarged on bail, being Trichy is the scene of crime and also his native place, the petitioner/accused would intrude with the

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investigation and influence the witnesses not to co-operate with the investigating agency viz. CBI and if the petitioner/accused is enlarged on bail, he will influence the inmates of M/s. Mose Ministries including Julia @ Uliya for not giving sample voice by filing various petitions. However, recording of sample voice is very crucial for the purpose of investigation. The Hon'ble High Court of Madras Madurai Bench has posted the hearing of Crl. Revision petition on sample voice on 29.1.2018 and if the petitioner/accused is enlarged on bail, the petitioner/accused may influence the inmates of M/s. Mose Ministries to file Crl. Revision petitions and other petitions before High Court of Madras and Supreme Court of India through his associates. Though the inmates of M/s. Mose Ministries including Julia @ Uliya are under the control of social welfare Department, the petitioner/accused and his associates may influence the inmates and thereby to file the inmates more petitions before the Hon'ble High Court and Supreme Court of India for not co-operating with the investigation especially giving sample voice

It is submitted that the reasons for non completion of investigation so far is because of the influence of the accused and his associates on the witnesses for no co-operating to the investigation. Hence, Julia @ Uliya filed Crl. Revision petition for not giving her sample voice.

In the light of above discussed facts and circumstances and also considering the crucial stage of investigation and serious nature of offences committed by the petitioner/accused Gideon Jacob, it is respectfully prayed before this court may graciously be pleased to pass such or other orders by considering the above facts.

Heard both sides, petitioner side would submit that the accused was arrested on 27.10.2017 and remanded to judicial custody on 28.10.17. It is also submitted that even after completion of 90 days, the respondent has not filed the charge sheet. Hence, the petitioner/Accused-3 is entitled for the statutory bail as per the provisions of section 167(2) (a)(i) of Cr.Pc., It is also submitted that the accused is aged about 62 years old and he is seriously suffering from various ailments. It is also submitted that the petitioner will not abscond or tamper the witness and he is ready to furnish substantial sureties as directed by this Hon'ble court Hence considering all it is prayed to release him on bail.

On the other hand the respondent side objected to release him on bail. Since he has not surrendered his passport. It is also submitted that if he is enlarged on bail, there is

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every likely livelihood on him to tamper with crucial stage and destroy vital documents and material connected to the case. It is also submitted that the accused is native of Trichy, he would intrude with investigation and influence the witnesses for not to co-operate with the investigating agency. It is also submitted that if he is enlarged on bail he will influence the inmates of Mrs. Mose ministries, Trichy including Mrs. Julia @ Uliya for not giving sample voice by filing various petitions. Due to investigation is under crucial stage, it is objected to release him on bail. It is also submitted that the reason for non completion of investigation is because of the influence of the petitioner and his associates on the witness for not to co-operate with the investigating agency. Hence, considering all the aspects and investigation is in crucial stage, it is prayed to dismiss the petition.

Records perused, on perusal of records the accused is in judicial custody from 28.10.17. It is also admitted by the prosecution side that investigation is not yet completed till this date. As per section 167(2)(a)(i) of Cr.Pc.,

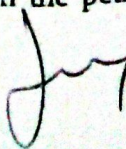
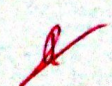
(a) The Magistrate may authorize the detention of the accused person otherwise than in the custody of the police, beyond the period of fifteen days if he is satisfied that adequate grounds exist for doing so but no Magistrate shall authorize the detention of the accused person in custody under this paragraph for a total period exceeding--

(i) Ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) Sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;

So as per the above provision law in this case also the prosecution side has not completed, the investigation within the stipulated period of 90 days. The respondent side objection is that the accused is released on bail, there is every livelihood of him to tamper with crucial evidence and destroy the vital documents and it is also objected on the ground that the accused is being native of Trichy, he would intrude with investigation and influence the witness for not co-operating with the investigating agency.

Considering the nature of offences in which the petitioner/accused was remanded, the

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investigation should be completed within the stipulated period of 90 days. But so far no charge sheet has been filed in this case. During the argument respondent side has relied on the judgment held by the Hon'ble Supreme Court of India Y.S.Jagan Mohan Reddy /vs./CBI in SLP (Crl.) No.3404 of 2013 in Crl. Appeal No.730 of 2013. By relying upon the above judgment, it is argued that even within the stipulated period of 90 days from the date of remand, investigation is not yet completed, there is no necessity to consider the bail petition filed under section 167(2)(a)(i) Cr.Pc.. On seeing the above judgment the facts and circumstances of that case is differ from this case. Hence, above judgment is not applicable to this present case. So taking in to consideration of the all aspects, even after completion 90 days from the date of remand, investigation could not be completed and considering the prosecution side objection that the accused is being native of Trichy and if he is enlarged on on bail he would intrude with the investigation, this court is inclined to grant bail under section 167(2)(a)(i) cr.Pc., with conditions.

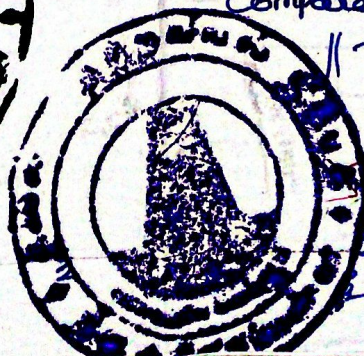
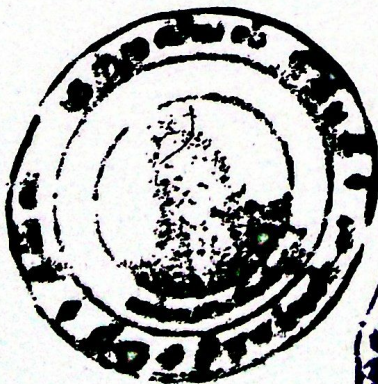
In fine, bail petition filed by the petitioner/accused under section 167(2)(a)(i) of Cr.Pc., is allowed on the following conditions that,

- i) The petitioner/accused should not leave India without getting prior permission of this court.
- ii) The Petitioner/accused along with two sureties should execute a bond of Rs.20,000/- on satisfaction of this court. In addition to that either of his wife or one of his own brothers or sisters of the accused should also execute a bond of like sum amount on satisfaction of this court.
- iii) The petitioner/accused should stay in Chennai only and he should appear and sign before the respondent/police daily at 10.00 A.M. and 5.00 P.M. till further orders. In the above said condition this bail petition is allowed.

Pronounced by me in open court that the 25th day of January 2018.

Chief Judicial Magistrate (FAC),

Tiruchirappalli.



Compared with original

// True copy //

By order

Amutha
Shreighthadar

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