

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2020

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.7266 of 2020

1.Kanagaraj

S/o.Baskar,

Chinna Street, Nalanputhur,

Kattumannarkudi,

Cuddalore – District

2.Prakash,

S/o.Krishnamoorthy,

Mela Street, Kamachipuram

Vettamangalam,

Thanjavur District

... Petitioners

Vs.

The State Rep. by

The Inspector of Police,

Kuttalam Police Station,

Nagapattinam District,

Cr. No.95 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.95 of 2020 on the file of the respondent police.

For Petitioners : Mr.U.Kathiravan

For Respondent : Mr.M.Mohammed Riyaz,
Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on 20.03.2020 for the offence punishable under Sections 379 & 430 of IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act in Crime No.95 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioners transported river sand illegally by using a motor vehicle for commercial purpose. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are not involved in the above alleged offence and they are no way connected with the offence as alleged by the prosecution and they did not commit any offence. On instruction, it is submitted that in order to show their bonafide, the petitioners are ready and willing to deposit a sum of Rs.5,000/- each to the Chief Minister Public Relief Fund. Further he submits that the petitioners are in judicial custody for the past three weeks and hence, he seeks bail for the petitioners.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that the quantity of sand involved is ½ unit and the same was recovered. He further submitted that the investigation is pending. Hence, he vehemently opposed for grant of bail to the petitioners.

5. Taking into consideration the nature of allegations against the petitioners in the FIR and also taking note of the fact that the petitioners are in judicial custody from 20.03.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

[a] the petitioners shall deposit a sum of Rs.5,000/- (Rupees five thousand only) each to the Chief Minister Public Relief Fund, and on such deposit the petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each before the Superintendent of the concerned prison;

[b] the petitioners shall report before the respondent police as and when required for interrogation.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners 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 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].

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

6. With the above directions, this Criminal Original Petition is ordered.

04.05.2020

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

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To

1. The District and Sessions Judge
Nagapattinam

2. The Inspector of Police,
Kuttalam Police Station,
Nagapattinam District

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent,
Sub Jail, Mayiladuthurai.



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