

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.05.2020

CORAM

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

Crl.O.P.No.7666 of 2020

Abubakkar Sethik @ Sethik,
S/o.Haja Maideen,
Andalkula Theru,
Thirupoondi post,
Nagapattinam District.

... Petitioner/A-1

Vs.

State represented by
The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.

... Respondent

Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.475 of 2020 pending investigation on the file of the respondent/police.

For Petitioner : Mr.A.Raja Mohamed
For Respondent : Mr.Karthikeyan
Additional Public
Prosecutor

ORDER

The petitioner was arrested and remanded to judicial custody on 06.05.2020 for the offence punishable under Section 379 IPC and Section 21 (1) of the Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.475 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the Sub-Inspector of Police, on information about trafficking of river sand, was patrolling at Balakuruchi bus stop. When he noticed a Tractor with tipper bearing Registration No.TN-51-C-2279 fast approaching, he stopped and searched the vehicle and found one unit of river sand. The driver and the cleaner had no valid permit to transport the sand and they were arrested and hence, this complaint.

3.The learned counsel appearing for the petitioner would submit that the owner of the vehicle has called the petitioner to transport the agricultural sand to Balakuruchi and hence, the petitioner went along with the cleaner to the said place to transport the material as per the instructions of his owner. The respondent police on a wrong premise detained the petitioner and

remanded him to judicial custody. Further he would submit that the petitioner is in judicial custody from 06.05.2020 and seeks bail for the petitioner.

4.The learned Additional Public Prosecutor (Crl. Side) would submit that the petitioner, taking advantage of the lockdown period, transported river sand without proper permit. Hence, he opposed for grant of bail to the petitioner.

5.Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner is in judicial custody from 06.05.2020 and moreover, the petitioner being driver of the vehicle, this Court is inclined to grant bail to the petitioner, subject to the following conditions : सत्यमेव जयते

(a)the petitioner shall deposit a sum of Rs.10,000/-(Rupees ten thousand only) to the Chief Minister Public Relief Fund, Tamil Nadu, and on such deposit the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before

the Superintendent of the concerned prison in which the petitioner has been confined, on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

19.05.2020

nsd

Index: Yes/No

Speaking order/Non-speaking order

To

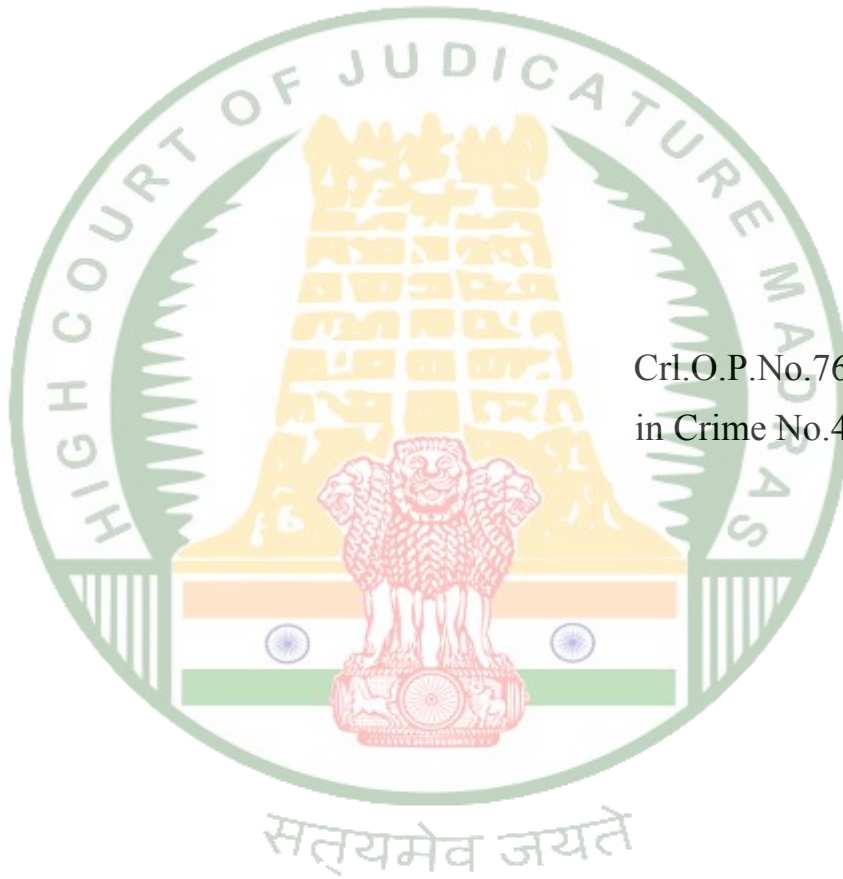
1. The District and Sessions Judge,
Nagapattinam.
2. The Judicial Magistrate No.I,
Nagapattinam.
3. The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.
4. The Public Prosecutor,
High Court, Madras.
5. The Superintendent of Prison,
District Prison,
Nagapattinam.



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M.NIRMAL KUMAR.J.

Nsd



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