

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.05.2020

CORAM

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

Crl.O.P.No.7944 of 2020
in Crime No.389 of 2020

1. Muthu,
S/o.Govindharajan,
South Street,
Kodimangalam,
Kuthalam Taluk,
Nagapattinam District.

2. Saravanan,
S/o.Thangavel,
Keezha Theru,
Kodimangalam,
Kuthalam Taluk,
Nagapattinam District.

...Petitioners/Accused 1 & 2

Vs.

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

...Respondent

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Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.389 of 2020 on the file of the respondent police.

For Petitioners : Mr.C.T.Saravanan
For Respondent : Mr.Karthikeyan
Additional Public
Prosecutor

ORDER

The petitioners were arrested and remanded to judicial custody on 29.04.2020 for the offences punishable under Sections 188, 269, 270, 420, 379 and 43 IPC and Section 21 (1) of the Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.389 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioners have transported the sand illegally by using a tractor attached with tipper and two wheeler without getting any permission from Government. Hence the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have no way connected in this case. He would further submit that they have been falsely implicated in this case. Further he would submit that the petitioners were in judicial custody from

29.04.2020 and seeks bail for the petitioners.

4.The learned Additional Public Prosecutor (Crl. Side) would submit that the petitioners, taking advantage of the lockdown period, transmitted river sand without prior permit. 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 petitioner is in judicial custody from 29.04.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions :

(a)each of the petitioners shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai – 600 020 (Bank: Andhra Bank, Madhya Kailash, SB A/C No.149710011005477), 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) before the Superintendent of the concerned prison, in which the petitioners have been confined on their release;

(b)each of the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), 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 petitioners shall report before the respondent police as and when required for interrogation.

(e) the petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

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

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

सत्यमेव जयते

28.05.2020

nsd

Index: Yes/No

Speaking order/Non-speaking order

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To

1.The District and Sessions Judge,

Nagapattinam.

2.The Judicial Magistrate No.II,

Mayiladuthurai.

3. The Superintendent of Prison,

Central Prison, Trichy.

4. The Inspector of Police,

Palaiyur Police Station,

Palaiyur, Nagapattinam District.

5. The Public Prosecutor,

Madras High Court,

Chennai.

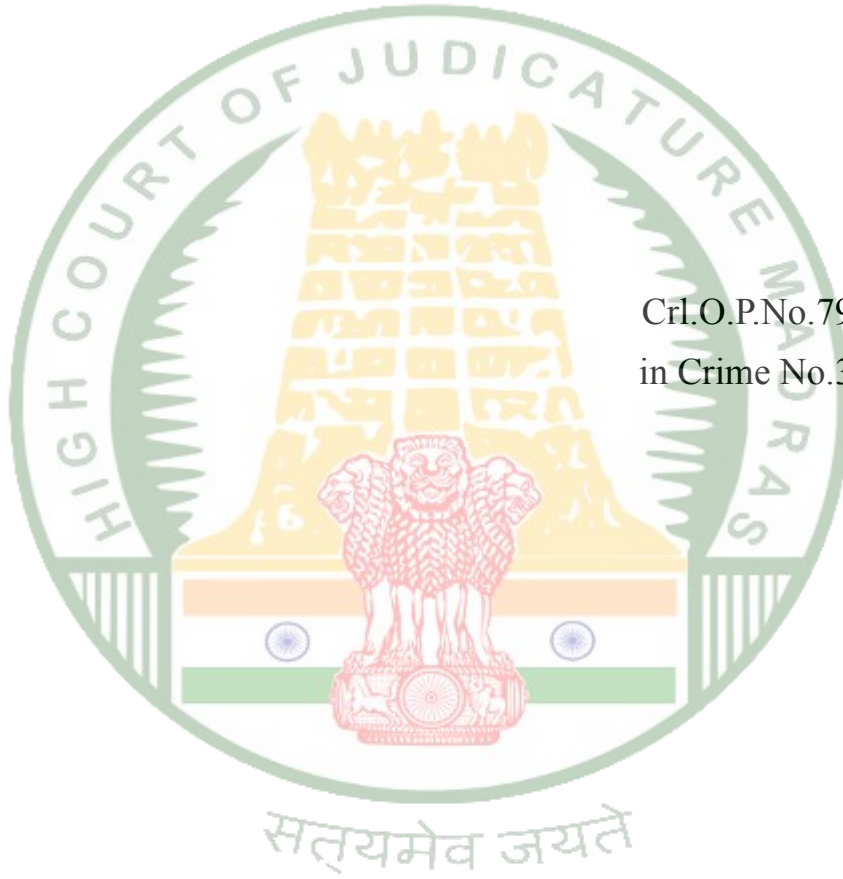


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CRL.O.P.No. 7959 of 2020

M.NIRMAL KUMAR.J.

nsd



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in Crime No.389 of 2020

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