

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2020

CORAM

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

CrI.O.P.No.8209 of 2020

Vijayaraghavan

... Petitioner / Accused No.1

Vs.

State rep. by its

Inspector of Police,

Kilvelur Police Station,

Nagapattinam District.

(Crime No.1133 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the Petitioner on bail in Crime No.1133 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr.J.Jawahar

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

ORDER

The petitioner was arrested and remanded to judicial custody on 27.05.2020 for the offence punishable under Sections 379, 430 of IPC & 21(1)

Mines and Minerals (Developments and Regulation) Act, in Crime No.1133 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 27.05.2020 the defacto complainant, with subordinate were conduct routine checkup at respondent Police Limit, nearby Orkudi Ventratrancarai. At the time one Tractor with Tipper was came upon that place, the police official stopped the vehicle, they were suddenly try to escape from the place, but the police official were caught out driver another person escape that place, after investigation the respondent police is known about the petitioner. After that search his vehicle, it was possession of 1 unit of river sand. Hence the respondent seized the vehicle and sand and FIR was registered against petitioner and another person on the same day the petitioner was arrested and remanded judicial custody. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not involved in any offence as alleged by the prosecution. He would submit that the petitioner is innocent of the offences and he has been falsely implicated in this case and further he would submit that the petitioner is ready to furnish sufficient surities for his release on bail. Further, he would

submit that the petitioner was in judicial custody from 27.05.2020 and seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner illegally transmitted 1 unit of sand in his Tractor with Tipper without prior permit. He further submitted that there are six other previous cases in the name of the petitioner. Hence, he vehemently 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 27.05.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner shall deposit a sum of Rs.20,000/- (Rupees twenty 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 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 within a period of 15 days from the date of lifting of lockdown and commencement of

regular functioning of Court below, 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 report before the respondent police as and when required for interrogation.

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

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

(g) the petitioner 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 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];

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

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

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Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

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To

1. The Judicial Magistrate – I,
Nagapattinam.

2. Inspector of Police,
Kilvelur Police Station,
Nagapattinam District.

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent,
Central Prison,
Trichy.



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M.NIRMAL KUMAR, J.

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