

IN THE HIGH COURT OF JUDICATURE AT
MADRAS

DATED: 09.06.2020

CORAM

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

Crl.O.P.No.8349 of 2020

Dhanapal (Male /aged 48 years)
S/o Sivasamy
Mettu Street,
Melakattu Thenparai Village,
Mannargudi Taluk,
Thiruvarur District
Petitioner

The State Rep. By
Inspector of Police,
Thirumakottai Police Station,
Thiruvarur District.
Respondent
(Crime No.356 of 2020)

Vs.

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to
enlarge the petitioner on bail in Crime No.356 of 2020 on the file of the
Inspector of Police, Thirumakottai Police Station, Thiruvarur Distret.

For Petitioner : Mr.Swami
Subramanian

For Respondent :
Mr.S.Karthikeyan

Additional Public Prosecutor

The petitioner was arrested and remanded to judicial custody on 25.05.2020 for the offence punishable under Section 379 of I.P.C r/w. 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.356 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had transported one unit of river sand illegally by using Tractor bearing Registration No. TN 50 S 9244 without any valid license. Hence, the complaint was registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not involved in any offence as alleged by the prosecution and he has been falsely implicated in this case. Further, he would submit that the petitioner was in judicial custody from 25.05.2020 and seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner had transported one unit of river sand illegally by using Tractor bearing Registration No. TN 50 S 9244 without any valid license. He further submitted that there is no previous case pending as against 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 25.05.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner shall deposit a sum of Rs.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 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.

msrm

09.06.2020

To

1. The learned Principal Sessions Judge,
Thiruvavarur.

2. The learned Judicial Magistrate No.II,
Mannargudi, Thiruvavarur District.

3. The Inspector of Police,
Thirumakottai Police Station,
Thiruvavarur District.

4. The Public Prosecutor,
High Court, Madras.

5.The Superintendent
District Prison, Nagapattinam.



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M.NIRMAL KUMAR, J.

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