

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2020

CORAM

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

Crl. O.P. No.8552 of 2020

Nellivanam (M/34)
S/o. Muthuamy

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
Aalivalam Police Station,
Thiruvarur District
(Crime No.595/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioner on bail in Crime No.595 of 2020 pending on the file of the respondent police.

For Petitioner. : Mr. Swami Subramanian

For Respondent: Mr. S. Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on **31.05.2020** for the offence punishable under Sections **379 of I.P.C read**

with section 21(1) of Mines and Minerals (Development & Regulation) Act 1957 in Crime No.595 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 31.05.2020 at about 08.50 a.m., the defacto complainant, Sub Inspector of Police, while patrolling the duty within the limit of Aalivalam Police Station, found that the petitioner herein is the driver of the vehicle was transporting one unit of river sand illegally without obtaining proper licence. 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 had only carried one unit of river sand. Despite the petitioner explaining the same to the respondent, he was arrested. Further, he would submit that the petitioner was in judicial custody from 31.05.2020 and seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner transmitted one unit of river sand using a vehicle without prior

permit. He further submit that no previous case as against 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 31.05.2020, 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.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

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To

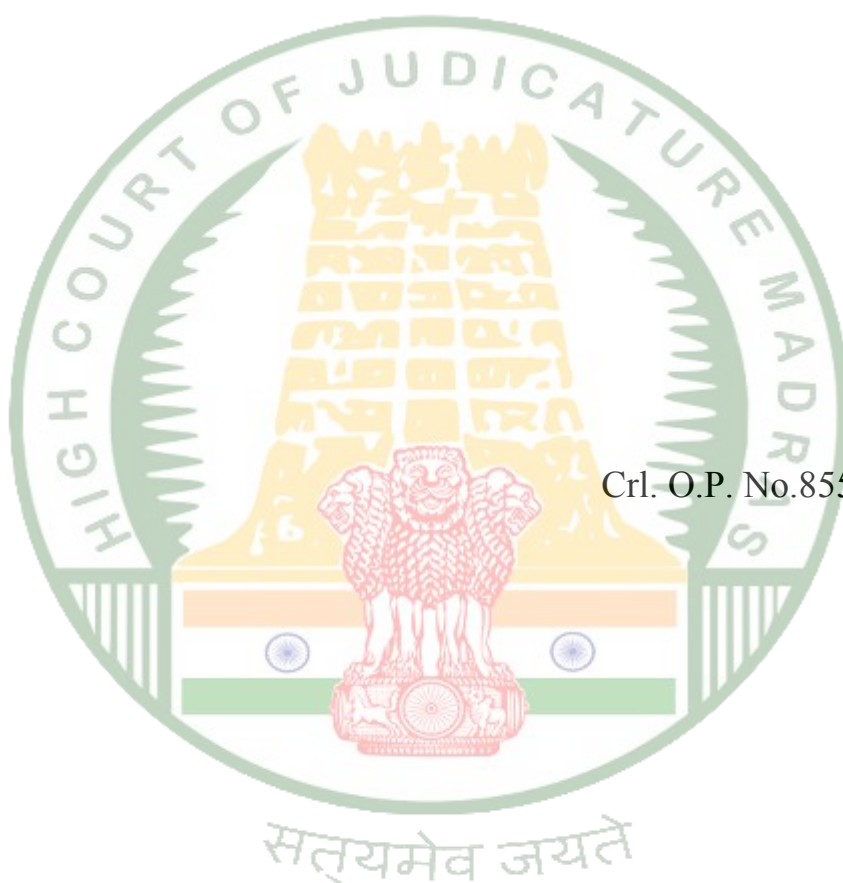
1. The Judicial Magistrate,
Thiruthuraipoondi,
Thiruvarur District.
2. The Inspector of Police,
Aalivalam Police Station,
Thiruvarur District.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Sub Jail, Nannilam.



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M. NIRMAL KUMAR, J.

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