

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2020

CORAM:

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

CRL.O.P.No.9048 of 2020

1.Saravanan,
S/o.Balakrishnan

2.Kumar,
S/o.Mani

Both are residing at
Mariyamman Koil Backside,
Chinna Thellur Village,
Ussoor Village,
Vellore

... Petitioners

Vs.

State rep.by
Inspector of Police,
Ariyur Police Station,
Vellore District.
Crime No.559 of 2020

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioners /accused on bail and release them from the custody in Crime No.559 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.M.R.Thangavel
For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioners were arrested and remanded to judicial custody on

<http://www.judis.nic.in> 27.05.2020 for the offence punishable under Sections 294(b), 379, 430,353,307

IPC r/w Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.559 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that based on the secret information, the respondent was on patrol duty found that the petitioners are loading 1 ½ unit of river sand in tractor bearing No. TN-21-AC-4915 with the help of JCB vehicle bearing No. TN-21-AE-9895. On seeing the respondent, the petitioners tried to run away and later secured by the respondent and the driver of the vehicle attempted to run over the respondent. Hence, this complaint.

3. The learned counsel appearing for the petitioners would submit that the first petitioner is the owner of the vehicle and the second petitioner is the driver of the vehicle and the petitioners have not involved in any offence as alleged by the prosecution. He would submit that the petitioners had only carried morambu sand and not the river sand. He also submit that the first petitioner is the village President and there was some political rivalry against him. Being the village President, the first petitioner used to question the respondent on several occasions and that caused hatred in the mind of the respondent and therefore, the respondent police foisted a false case against the petitioners. Further, he would submit that the

petitioners were in judicial custody from 27.05.2020 and seeks bail for the petitioners.

4. The learned Additional Public Prosecutor would submit that the first petitioner being the village President, had engaged illicit transport of river sand on several occasions and using his position, he had been continuing illegal transport of river sand. The first petitioner was warned by the respondent police on several occasions. Despite the same, the first petitioner continuing the illegal transport of river sand. 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 petitioners are in judicial custody from 27.05.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions :

(a) the first petitioner shall deposit a sum of Rs.25,000/- (Rupees twenty five 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) the petitioners 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

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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.

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

सत्यमेव जयते

19.06.2020

Internet : Yes / No

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To

1. The Principal Sessions Judge, Vellore.
2. The Superintendent, Vellore Central Prison, Thorapadi.
3. The Inspector of Police,
Ariyur Police Station,
Vellore District.
4. The Public Prosecutor, High Court, Madras.

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