

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.9287 of 2020

Prabakaran

.. Petitioner

/versus/

The State rep. by
The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District,
Crime No.1663 of 2020.

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the Petitioner on bail in Crime No.1663 of 2020 on the file of the Inspector of Police, Muthupettai Police Station, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian
For Respondent : Mr.K.Prabhakar,
Addl Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 12.06.2020 for the alleged offence punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.1663 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner had illegally transported one unit of river sand in his Mini Lorry. Hence, a case has been registered against the petitioner.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On instruction, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit some considerable amount to any charitable organization, and that the petitioner has been suffering incarceration from 12.06.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that the petitioner is owner-cum-driver of the Mini Lorry had transported one unit of river sand and there is no previous case against the petitioner. However, he opposed for the grant of bail to the petitioner.

5.In view of the fact that there is no previous case against the petitioner and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the Manonmani Trust (Anbagam) Thirukandalam Village, Tiruvallur District and also taking note of the fact the period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner, subject to the following condition:

(a) the petitioner shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the Manonmani Trust (Anbagam) Thirukandalam Village, Tiruvallur District, bearing A/c No.047501000028847, Indian Overseas Bank, Tower Branch, AC 56, Vth Avenue, Anna Nagar, Chennai – 600 040, IFS Code - IOBA0000475, and on such deposit and production of proof, 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 and on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate, Thiruthuraipoondi, Thiruvallur District, within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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) it is made clear, merely because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

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

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

(h) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) 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];

(j) 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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To

- 1.The Judicial Magistrate,
Thiruthuraipoondi,
Thiruvarur District.
- 2.The Superintendent,
District Prison,
Nagapattinam.
- 3.The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District.
- 4.The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA, J.

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