

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2019

Coram

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.9733 of 2020 in

Crime No. 1306 of 2020

K.Mathavan

... Petitioner

Vs.

State Rep by.

... Respondent

The Inspector of Police,
Peralam police Station,
Tiruvallur District.
Crime No. 1306 of 2020.

Prayer: This Criminal Original Petition has been filed under Section 439 of the Code Criminal Procedure to enlarge the petitioner on bail in Crime No.1306 of 2020 on the file of the respondent police.

For Petitioner : Mr.K.Karuppaiya Moopanar

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor.

ORDER

(This case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 10.06.2020 by the respondent police in Crime No.1306 of 2020 for the offences punishable under Sections 430, 379 IPC, seeks bail.

2. The case of the prosecution is that the petitioner has illegally transported 3 bags of sand each containing 50kg using two wheeler, without any permit or valid licence and it was seized by the respondent police.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. On instruction, he would further submit that without prejudice to their defence, the petitioner is prepared to deposit some considerable amount to any charitable organization, and that the petitioners has

been suffering incarceration from 10.06.2020. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor submitted that the petitioner had transported 3 bags of sand each containing 50kg using two wheeler illegally and hence, he opposed for grant of bail.

5. 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.5,000/- (Rupees five thousand only) to the Tamilnadu Advocate Clerk Association, High court, Madras and also taking note of the fact the period of incarceration suffered by the petitioners, this court is inclined to grant bail to the petitioners, subject to the following conditions.

a) The petitioner shall deposit a sum of Rs.5,000 (Rupees five thousand only) through RTGS/NEFT transfer to the credit of Tamilnadu Advocate Clerk Association, High Court, Madras (Indian Bank, High Court branch, A/c No.484026006, IFC No.IDIB000M157) and on such deposit and production of proof, the petitioner is ordered to be released on bail on execution 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 thereafter 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, Nanneelam, Tiruvarur 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 of 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 petitioners to furnish the correct details of address along with mobile number to the investigating officer and to the concerned court.

(g) The petitioner shall not commit any offences of similar nature.

(h) the petitioner shall not abscond either during investigation or trial.

(i) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(k) on breach of any of the aforesaid conditions, the learned Judicial Magistrate / Trial Court is entitle to take appropriate action against the pettiioner 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.**

(l) 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.

-sd/-
30/06/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NANNILAM, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERALAM POLICE STATION,
THIRUVARUR DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, THIRUVARUR DISTRICT.

CC to M/S.K.KARUPPAIYAMOOPANAR Advocate on payment of necessary charges

CRL OP.9733/2020

Date :30/06/2020