

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2020

CORAM :

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

Crl.O.P.No.9862 of 2020

Thamizhvanan

... Petitioner

/versus/

The State

Rep. By Inspector of Police,
Kottur Police Station,
Mannargudi,
Tiruvarur District.
(Crime No.846/2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, pleaded to grant bail to the petitioner pending investigation in Crime No.846 of 2020 on the file of Respondent Police.

For petitioner : Mr.S.Arivazhagan

For Respondent : Mr.K.Prabhakar,
Addl Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 22.06.2020 for the offence punishable under Section 379 of IPC r/w Section 21(II) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.846 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners had illegally transported one unit of sand 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 or association, and that the petitioner has been suffering incarceration from 22.06.2020. Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor submitted that the petitioner had transported one unit of sand illegally. He would submit that there is one previous case pending against the petitioner. Hence, he opposed for the 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.10,000/- (Rupees Ten thousand only) to the Madras High Court Advocates Clerks Welfare Association and also taking note of the fact the period of incarceration suffered 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) through RTGS/NEFT transfer to the credit of Madras High Court Advocates Clerks Welfare Association (Indian Bank, High Court Branch, A/c No.484077244, IFSC Code:IDIB000M157) 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 thereafter on their release;

(b)the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the Judicial Magistrate-II, Mannargudi, Thiruvavarur District, within 15 days from the date of lifting of 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 Aadhaar 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 have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently;

(f)the petitioner 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;

(j)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];

(k)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/-
01/07/2020

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,
NO.II, MANNARGUDI, THIRUVARUR
DISTRICT

2 THE OFFICER INCHARGE
SUB-JAIL, MANNARGUDI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KOTTUR POLICE STATION,
MANNARGUDI, THIRUVARUR DISTRICT.

5 THE MADRAS HIGH COURT ADVOCATE
CLERKS WELFARE ASSOCIATION
(Indian Bank, High Court Branch,
A/c No.484077244, IFSC Code:IDIB000M157)

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

CRL OP.9862/2020

Date :01/07/2020

RD 17/08/2020