

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.07.2020

Coram

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.9941 of 2020 in

Crime No.1892 of 2020

Murugaiyan

... Petitioner

Vs.

State Rep by.

Thiruthuraipoondi Police Station,
Thiruvavarur District.

... Respondent

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.1892 of 2020 on the file of the respondent police, seeks bail.

For Petitioner : Mr.N.Palanivel
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 21.06.2020 by the respondent police for the offences punishable under Sections 379 IPC and 21(1) of Mines and Mineral (Development and Regulation) Act, seeks bail.

2. The case of the prosecution is that the petitioner has illegally transported one unit of sand, using tractor, 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 21.06.2020. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor submitted that the petitioner had transported one unit of sand, using tractor 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.10,000/- (Rupees ten thousand only) to the Madras High Court Advocate Clerks Welfare Association, 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.10,000 (Rupees ten thousand only) through RTGS/NEFT transfer to the credit of Madras High Court Advocate Clerks Welfare Association (Indian Bank, High Court branch, A/c No.484077244, IFSC No.IDIB000M157) and on such deposit and production of proof, the petitioner is ordered to be released on bail on execution of 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, Thiruthuraipoondi, 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 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.**

(1) 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/-
02/07/2020

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,
THIRUTHURAIPOONDI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR DISTRICT [FOR INFORMATION]

3 THE ADDITIONAL PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
THIRUTHURAIPOONDI POLICE STATION,
TIRUVARUR DISTRICT.

5 THE SUB JAILOR, MANNARGUDI

6 THE MADRAS HIGH COURT ADVOCATE
CLERKS WELFARE ASSOCIATION (INDIAN BANK,
HIGH COURT BRANCH, A/C NO.484077244,
IFSC NO.IDIB000M157)

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

CRL OP.9941/2020

Date :02/07/2020



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