

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.9952 of 2020

Regupathi

.. Petitioner

Vs.

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Koradachery Police Station
Thiruvaur.

..Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail pending investigation of the case in Crime No.1051 of 2020 on the file of the respondent police(Koradachery Police Station).

For Petitioner : Mr.S.J.Mohamed Sathik

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 21.06.2020 for the alleged offences under Sections 379 of IPC read with Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957 in Crime No.1051 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had illegally transported half unit of river sand in a Bullock Cart, 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 his defence, the petitioner is prepared to deposit some considerable amount to any charitable organization, and that the petitioner has been suffering incarceration from 21.06.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the quantity of river sand involved in this case half unit and there is no previous case pending against the petitioner.

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 Madras High Court Advocates Clerks welfare Association, High Court, Madras and also taking note of the fact that the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

a) the petitioner shall deposit a sum of Rs.5000/- (Rupees Five thousand only) through RTGS/NEFT transfer to the credit of Madras High Court Advocates Clerks welfare Association, High Court, Madras (Indian Bank, High Court Branch, SB 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 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 on his release;

b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Judicial Magistrate, Thiruvavarur. within a period of 15 days from the date of lifting of lockdown and 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 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 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 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.

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,
THIRUVARUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KORADACHERY POLICE STATION, THIRUVARUR.

5 THE SUB JAIL, MANNARKUDI.

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

CC to M/S. S.J.MOHAMED SATHIK Advocate on payment of
necessary charges

CRL OP.9952/2020

Date :02/07/2020



सत्यमेव जयते

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