IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.07.2020

CORAM

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

Crl.O.P.No.10184 of 2020

1. Balu
2. Dinesh ... Petitioners

Vs.

State By
The Inspector of Police,
Valangaiman Police Station,
Tiruvarur District.
Crime No.1233 of 2020 ... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C. seeking to enlarge the petitioners on bail, in the case pending investigation in Crime No.1233 of 2020 on the file of the respondent police.

For Petitioners : Mr.R.Thamaraiselvan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)

O R D E R

(The case has been heard through video conference)

The petitioners were arrested and remanded to judicial custody on 09.06.2020 for the offences punishable under Sections 430, 379 IPC in Crime No.1233 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 09.06.2020, the petitioners were found transporting four bags of sand by using their two wheeler. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and they did not commit any offence as alleged by the prosecution and they have been falsely implicated in this case. On instruction, he would further submit that without prejudice to their defence, the petitioners are prepared to deposit some considerable amount to any charitable organization, and that the petitioners have been suffering incarceration from 09.06.2020. Hence, he prays for grant of bail.

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4.The learned Government Advocate (Crl. Side) submitted that each petitioner was found transporting two bags of sand illegally and that there is no previous case against them. However, he opposed for the grant of bail.

5.In view of the above facts and circumstances and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) each, to the 'Madras High Court Advocates Clerks Welfare Association' and also taking note of the fact the period of incarceration by the petitioners, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

(a)The petitioners shall deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) each, through RTGS/NEFT transfer to the credit of Madras High Court Advocates Clerks Welfare Association, Indian Bank High Court Branch S.B.A/c No.484077244, IFSC Code:IDIB000M157 and on such deposit and production of proof, the petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(b) each petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the District Munsif Cum Judicial Magistrate, Valangiman, 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 petitioners shall report before the respondent police as and when required for interrogation;

(e)it is made clear, merely because the petitioners deposit 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 petitioners to furnish the correct details of address along with mobile number to the Investigating Officer and to the concerned Court;

(g) the petitioners shall not commit any offences of similar nature;

(h)the petitioners shall not abscond either during investigation or trial;

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(i)the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
07/07/2020

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

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

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, VALANGIMAN

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPOECTOR OF POLICE,
VALANGAIMAN POLICE STATION,
TIRUVARUR DISTRICT

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY

5 MADRAS HIGH COURT ADVOCATES CLERKS WELFARE ASSOCIATION,
INDIAN BANK HIGH COURT BRANCH
SB.A/C NO. 484077244, IFSC CODE:IDIB000M157

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

CRL OP.10184/2020

Date :07/07/2020

RVR 01/09/2020

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