

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2020

CORAM :

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

Crl.O.P.No.10717 of 2020

Balamurugan

... Petitioner

Vs.

State rep. by its
The Inspector of Police
Thiruvalam Police Station,
Vellore District.
(Cr.No.1043 of 2020) Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail as against the case pending on the file of the respondent police in Crime No.1043 of 2020.

For Petitioner : M/s.S.P.Arthi

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 28.06.2020 for the alleged offences punishable under section 379 & 430 IPC r/w. 21(1) of Mines and Minerals Act in Crime No. 1043 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution is that the petitioner was found in illegal transportation of one unit of river sand without any valid licence. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person 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 considerable amount to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 28.06.2020. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the quantity of sand involved in

this case is one unit. He would further submit that there is eight previous cases pending against the petitioner. Hence, he opposed to grant bail to the petitioner.

5 Normally, this Court does not grant bail when there are eight previous case. However, since it is stated by the learned counsel for the petitioner that the petitioner is prepared to deposit some amount to any charitable organization and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner shall deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) as non refundable deposit to **"Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Account No:6873278505, Indian Bank, Madras High Court Branch with IFSC Code - IDIB000M157"**, without prejudice to his rights and contentions before the trial Court.

6 Merely, because the petitioner deposits 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.

7 Taking into consideration of the facts and circumstances and also the submissions made by the learned counsels and also considering the period of incarceration by the petitioner from 28.06.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) through RTGS/NEFT in favour of **"Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Account No:6873278505, Indian Bank, Madras High Court Branch with IFSC Code - IDIB000M157"**, on such deposit and production of proof and also 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 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, Katpadi within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, 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 daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8 With the above directions, this Criminal Original Petition is ordered.

-sd/-
27/07/2020

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,
KATPADI.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUVALAM POLICE STATION,
VELLORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

6 THE BAR COUNCIL OF TAMIL NADU
AND PUDUCHERRY (BCTNP) ADVOCATES RELIEF FUND,
ACCOUNT NO:6873278505, INDIAN BANK, MADRAS
HIGH COURT BRANCH WITH IFSC CODE -
IDIB000M157"

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

CRL OP.10717/2020

Date :27/07/2020

TA-08/09/2020



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