

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10669 of 2020

Gopu

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
Perugavazhnthan Police Station,
Thiruvarur.

(Cr.No. 687/2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.687 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.Rajagopal Vasudevan

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 30.06.2020 for the offences punishable under Section 379 of IPC read with Section 21(1) of Mines and Minerals Act in Crime No. 687 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 five bags of river sand by using TVS XL two wheeler without any valid licence.

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 30.06.2020. 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 five bags. He would further submit that there is no previous case pending against the petitioner. Hence, he opposed to grant bail to 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) as non refundable deposit to the Tamil Nadu Advocate Clerk Association, High Court, Madras, Indian Bank, High Court Branch, A/c.No.484026006, IFSC.No. 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 30.06.2020, 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.5,000/- (Rupees Five Thousand only) through RTGS/NEFT in favour of the Tamil Nadu Advocate Clerk Association High Court, Madras, Indian Bank, High Court Branch, A/c.No.484026006, IFSC.No. 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 No.II, Mannargudi, 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/-
20/07/2020

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.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
NANNILAM SUB JAIL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PERUGAVAZHNTHAN POLICE STATION,
THIRUVARUR.

CC to RAJAGOPAL VASUDEVAN Advocate on payment of necessary charges

CRL OP.10669/2020

Date :20/07/2020

MK:19/08/2020

<https://hcservices.ecourts.gov.in/hcservices/>