

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2020

CORAM :

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

Crl.O.P.No.10858 of 2020

Muthu

... Petitioner

- Vs. -

The Inspector of police,
Magaral Police Station,
Kanchipuram District.
(Crime No.342 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioner on bail in Crime No.342 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.Saranraj

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

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested on 27.06.2020, for the offences punishable under Sections 379 and 430 of I.P.C, Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and 3(1) of TN Public Property (Prevent. of Damage & Loss) Act, 1992, in Crime No.342 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of 200 Kgs of sand, without any valid license. Hence, the complaint.

3.The learned counsel for the Petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. On instruction, he would submit that without prejudice to defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association and that the petitioner has been suffering incarceration from 27.06.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner was found in possession of 200 kgs of sand. He would further submit that there are five previous cases pending as 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.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the **Bar Council of Tamil Nadu and Puducherry**, High Court, Madras, Indian Bank, High Court Branch, A/c.No.6873278505, 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 27.06.2020, 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.10,000/- (Rupees Ten Thousand only) through RTGS/NEFT in favour of the **Bar Council of Tamil Nadu and Puducherry**, High Court, Madras, Indian Bank, High Court Branch, A/c.No.6873278505, 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, each for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate-II, Kanchipuram, 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

(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/-
21/07/2020

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,
KANCHIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE SUPERINTENDENT,
SUB JAIL, KANCHIPURAM.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

5 THE INSPECTOR OF POLICE
MAGARAL POLICE STATION,
KANCHIPURAM DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

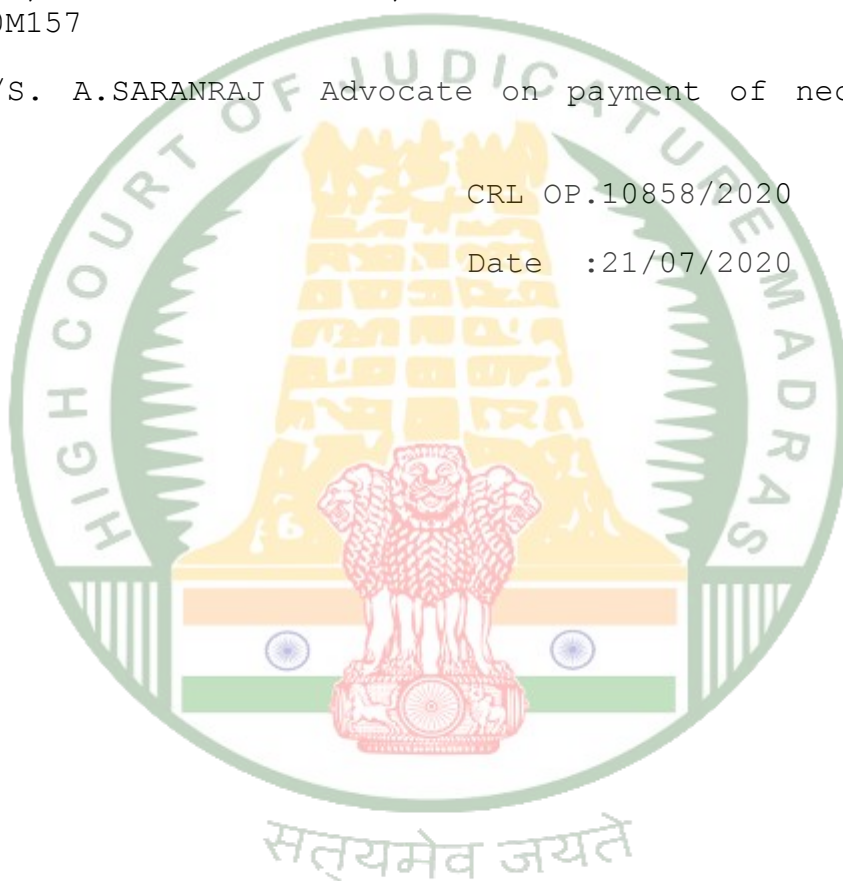
7 THE BAR COUNCIL OF TAMIL NADU AND PUDUCHERRY,
HIGH COURT, MADRAS, INDIAN BANK,
HIGH COURT BRANCH, A/C.NO.6873278505,
IFSC.NO. IDIB000M157

CC to M/S. A.SARANRAJ Advocate on payment of necessary
charges
|

CRL OP.10858/2020

Date :21/07/2020

MK:19/08/2020



WEB COPY