

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2020

CORAM :

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

Crl.O.P.No.11037 of 2020

ARULANANTHAJOSEPH

... Petitioner

Vs.

The State Rep. By
Inspector of Police
Perugvazhanthan Police Station
Thiruvarur District
(Crime No.712 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.712 of 2020 on the file of the Inspector of Police, Perugvazhanthan Police Station, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. 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 09.07.2020 for the offences punishable under Section 379 IPC, in Crime No.712 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner had illegally transported 25 cement bags of river sand, without any permit or 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 09.07.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner had illegally transported 25 cement bags of river sand without any valid licence or permit. Hence he vehemently opposes to grant bail to the petitioner. He would further submit that the petitioner has one previous case.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as non refundable deposit to the "The Bar Council of Tamilnadu and Puducherry (BCTNP), Advocates Relief Fund, Indian Bank, SB.A/c. No.6873278505, IFSC Code. 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, considering the submissions made by the learned counsels and also considering the fact that the petitioner is suffering incarceration from 09.07.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions :-

[a] the petitioner is directed to make a non refundable deposit of Rs.15,000/- (Rupees Fifteen Thousand only) to the Bar Council of Tamilnadu and Puducherry (BCTNP) Advocates Relief Fund, Indian Bank A/c.No.6873278505, IFSC: IDIB000M157, Madras High Court Branch, on such deposit and production of proof and on condition to execute 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, Thiruvavur District, 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) 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.

(d) 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;

(e) the petitioner shall report before the respondent police every day at 10.30 a.m. for a period of four weeks and thereafter on every Monday at 10.30 a.m. until further orders.

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

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

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

(i) 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];

(j) 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/-
30/07/2020

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,
THIRUVARUR DISTRICT.

2 THE OFFICER INCHARGE
SUB-JAIL, MANNARGUDI.

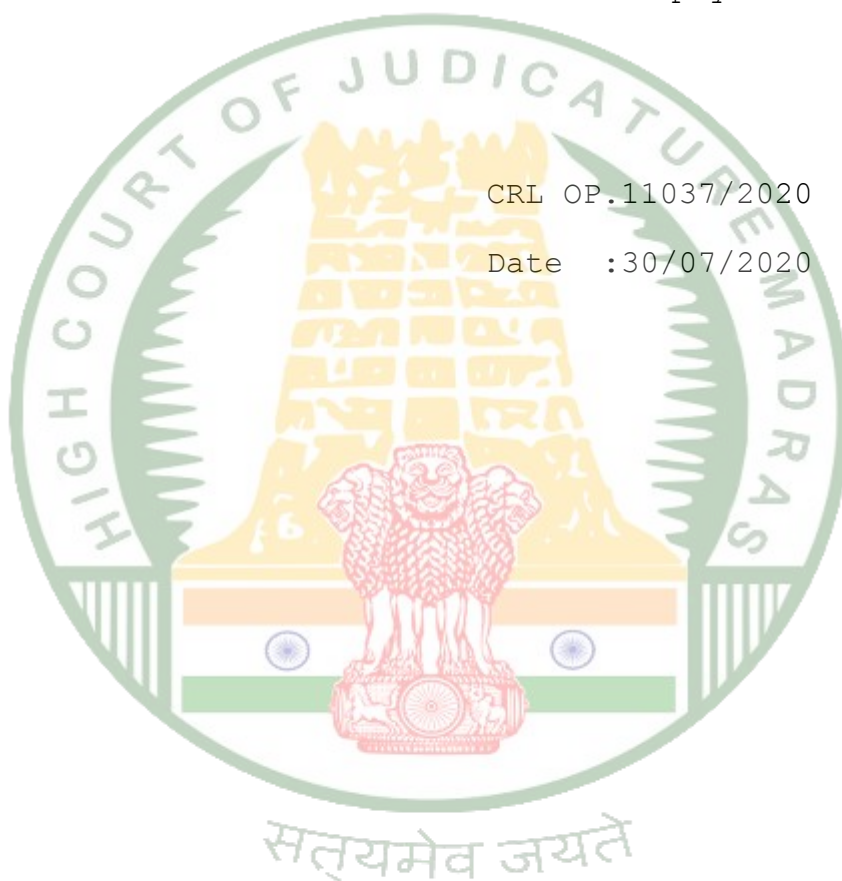
3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
PERUGAVAZHANTHAN POLICE STATION,
THIRUVARUR DISTRICT.

5 THE BAR COUNCIL OF TAMILNADU AND
PUDUCHERRY (BCTNP) ADVOCATES RELIEF FUND,
INDIAN BANK A/C.NO.6873278505,
IFSC: IDIB000M157,
MADRAS HIGH COURT BRANCH.

CC to M/S. SWAMI SUBRAMANIAN Advocate on payment of necessary
charges

cs 09/09/2020



CRL OP.11037/2020

Date :30/07/2020

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