

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2020

CORAM :

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

Crl.O.P.No.11418 of 2020

Suresh

... Petitioner

Vs.

State rep. by its
The Inspector of Police
Muthupettai Police Station
Tiruvavarur District.
(Crime No.2023 of 2020)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to grant bail to the petitioner pending investigation in Crime No.2023 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Sekar

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 the judicial custody on 11.07.2020 for the alleged offences punishable under sections 379 IPC r/w. 21(1) of Mines and Minerals (Development and Regulation)Act 1957 in Crime No.2023 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had illegally transported half unit 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. He would further submit that the co-accused has been granted anticipatory bail by this Court in Crl.O.P.No.11004 of 2020. 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 11.07.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner had illegally transported half unit of river sand without any valid licence or permit. He would further submit that there is no previous case as against the petitioner. However, he opposes to grant anticipatory bail to the petitioner.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner has to be directed to make a non refundable deposit of Rs.5,000/- (Rupees Five 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;

(a) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate, Thirutharaipoondi, 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;

(b) 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.

(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 every day at 10.30 a.m. for a period of two weeks and thereafter on every Monday at 10.30 a.m. until further orders.

(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.

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

-sd/-
31/07/2020

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,
THIRUTHARAIPONDI.

2 THE OFFICER INCHARGE
SUB JAIL, MANNARGUDI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
TIRUVARUR 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.S.SEKAR Advocate on payment of necessary charges

CRL OP.11418/2020

Date :31/07/2020

cs 02/09/2020