

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2020

CORAM :

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

Crl.O.P.No.12091 of 2020

Silambarasan

... Petitioner

Vs.

The State Rep. By
The Inspector of Police,
Needamangalam Police Station,
Tiruvarur District.
(Crime No.1012 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.1012 of 2020 on the file of the Inspector of Police, Needamangalam Police Station, Tiruvarur District.

For Petitioner : Mr.S.Sekar

For Respondent : Mr.T.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 18.07.2020 for the offences punishable under Section 379 of IPC read with Section 21(1) of Mines and Minerals (Development and Regulation Act) 1957, in Crime No.1012 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner had illegally transported three units of river sand using a lorry without any permit or valid licence. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. On instruction, he would further submit that taking into consideration the Covid pandemic situation the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 18.07.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner had illegally transported three units 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 no previous cases.

5. In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association this Court is of the opinion that the petitioner shall be directed to make **a payment/donation of a sum of Rs.45,000/- (Rupees Forty Five Thousand only) to "The Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank High Court Branch SB.A/c.No.484026006, IFSC Code No.IDIB000M157"** and on such payment and production of proof he shall be released on bail on him executing a 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;

6. Merely, because the petitioner has deposited the said amount, it would not amount to admission of her guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) The petitioner is directed to pay a sum of Rs.45,000/- (Rupees Forty Five Thousand only) either through RTGS/NEFT or in cash in favour of **"The Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank High Court Branch SB.A/c.No.484026006, IFSC Code No.IDIB000M157"** within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of her arrest or her appearance and on production of proof of payment of the above amount and on further condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for the like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization.

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter as and when required for the interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned 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]**.

[g] 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.

9. For reporting compliance, post on **01.09.2020**.

-sd/-
13/08/2020

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
NEEDAMANGALAM.

2 THE INSPECTOR OF POLICE
NEEDAMANGALAM POLICE STATION,
TIRUVARUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGAPATTINAM.

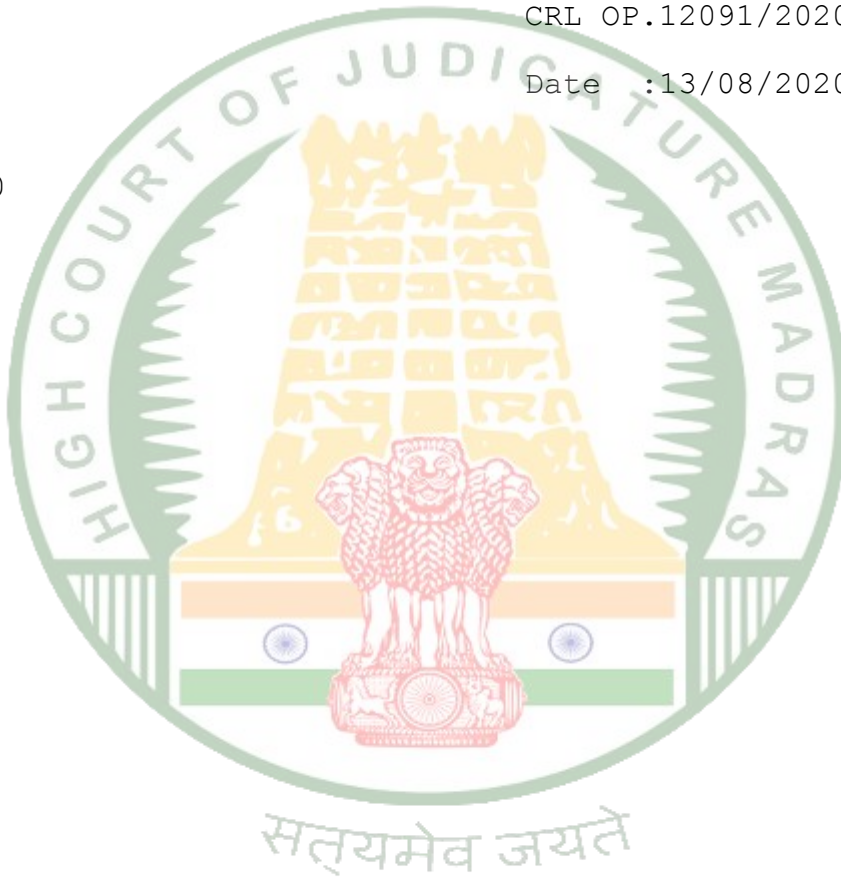
5 THE TAMIL NADU ADVOCATE CLERK ASSOCIATION,
HIGH COURT MADRAS,
INDIAN BANK HIGH COURT BRANCH SB.A/C.NO.484026006,
IFSC CODE NO.IDIB000M157

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

CRL OP.12091/2020

Date :13/08/2020

MN-24/08/2020



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