

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2020

CORAM

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

Crl.O.P.No.12379 of 2020

Vijaiyeshwaran

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Muthupettai Police Station,
Tiruvarur District.
Crime No.2191 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of their arrest in connection with Crime No.2191 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 judicial custody on 31.07.2020 for the offences punishable under Section 379 of IPC read with Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.2191 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioner has transported ½ unit of river sand illegally by using Tata Pick Up without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent person and he has been falsely implicated in this case. On instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioner without prejudice to his defence, are prepared to make considerable donation to any charitable Organization of Association, and that the petitioner has been suffering incarceration from 31.07.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the quantity of river sand involved is ½ unit. He further submitted that there are no previous case pending against the petitioner. Hence, he opposed for the grant of bail to the petitioner

5. Taking into consideration the voluntary submission made by the petitioners 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.5,000/- [Rupees Five Thousand only] to **"The Seva Chakkara Samajam/Orphanage, No.89/41, Sami Pillai Street, Choolai, Chennai -112 through Canara Bank, Vepery Branch, A/c. No.0943101024681, IFSC Code. CNRB0000943"** and on such payment and production of proof he shall be released on bail on condition to execute a own bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] each, before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

[b] **the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter on every Monday at 10.30 a.m., until further orders.**

[c] thereafter on his release from the prison, within a period of two weeks after lifting of lockdown or commencement of the Court's normal functioning whichever is earlier, shall surrender before the learned Judicial Magistrate, Thiruthuraipoondi and furnish two sureties for a sum of Rs.10,000/- each failing which the bail granted by this Court shall stand dismissed automatically.

[d] Merely, because the petitioner deposit the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

[e] 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;

[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 Trial Court is entitled to take appropriate

action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

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

-sd/-

17/08/2020

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 JUDICIAL MAGISTRATE,
THIRUTHURAIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR [FOR INFORMATION]

3 THE JAILER,
SUB-JAIL, MANNARGUDI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
TIRUVARUR DISTRICT

6 THE SEVA CHAKKARA SAMAJAM/ORPHANAGE,
NO.89/41, SAMI PILLAI STREET,
CHOO LAI, CHENNAI -112
THROUGH CANARA BANK, VEPERY BRANCH

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

CRL OP.12379/2020

Date :17/08/2020

MK:09/09/2020

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