

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 12901 of 2020

Karthick, S/o.Elumalai,
aged about 33 years,
No.95, Bajanaikoil Street,
Punnapakam Village,
Thiruvallur District.

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
Vengal Police Station,
Thiruvallur District.
(Crime No. 1700 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 1700 of 2019, on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. 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 23.07.2020 for the offences punishable under Sections 430 & 379 of IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.1700 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution is that the petitioner had illegally transported two gunny bags of river sand by using Motor Cycle, 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 23.07.2020. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl. Side) would submit that the petitioner had illegally transported two bags of river sand in Motor Cycle without any valid licence or permit. He would further submit that the petitioner has three previous cases. Hence, he vehemently opposes to grant bail to the petitioner.

5 Normally, this Court does not grant bail when there is previous case, but 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.5,000/- (Rupees Five Thousand only) to Little drops, Account No. 05811010002400, IFSC Code : ORBC01100581, Oriental Bank of Commerce, Moulivakkam Branch, Chennai and on such payment and production of proof he shall be released on bail by 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;

(a) the petitioner shall report before the respondent police every Monday and Friday at 10.30 a.m., until further orders.

(b) thereafter on his release 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 Judicial Magistrate, Thiruvallur and furnish two sureties for a sum of Rs.10,000/-each, 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 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

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/-
24/08/2020

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,
THIRUVALLUR

2 THE OFFICER INCHARGE
SUB-JAIL, POONAMALLEE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VENGAL POLICE STATION,
THIRUVALLUR DISTRICT,

5 THE LITTLE DEOPS
ACCOUNTS NO.058110100024000, IFSC CODE,
ORBCOIIIO0581, ORIENTAAL BANK OF COMMERCE,
MOULIVAKKAM BRANCH, CHENNAI

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

RD 04/09/2020

CRL OP.12901/2020

Date :24/08/2020