

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2020

CORAM :

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

Crl.O.P.No.12987 of 2020

Divakar

... Petitioner

Vs.

The State Rep. By
Inspector of Police
Perugavazhanthan Police Station
Tiruvarur District
(Crime No.799 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.799 of 2020 on the file of the Respondent.

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 09.08.2020 for the offences punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957, in Crime No.799 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner had illegally transported 7 bags of river sand in a two wheeler, 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 09.08.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner had illegally transported 7 bags of river sand in his two wheeler 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 for a sum of Rs.5,000/- (Rupees Five Thousand only) to the Little drops, Account No.05811010002400, IFSC No. ORBC0100581, Oriental Bank of Commerce, Moulivakkam, Chennai 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;

(b) 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.

(c) 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 learned Judicial Magistrate-II, Mannargudi, Thiruvavarur District, 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 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.

(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 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

(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/-
27/08/2020

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,
NO.II, MANNARGUDI,
THIRUVARUR DISTRICT.

2 THE OFFICER INCHARGE
SUB JAIL, NANNILAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE LITTLE DROPS,
ACCOUNT NO.05811010002400,
IFSC NO. ORBC0100581,
ORIENTAL BANK OF COMMERCE,
MOULIVAKKAM, CHENNAI

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

CRL OP.12987/2020

Date :27/08/2020

cs 07/09/2020