

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.13190 of 2020

Udhayakumar

... Petitioner

Vs.

State rep. By
The Inspector of Police
Thirukazhukundram Police Station
Kancheepuram District
(Crime No.852 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.852 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.Shunmugarajeswaran

Government Advocate (CrI. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 15.07.2020, for the offence punishable under Section 430, 379 IPC r/w Section 21 (1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.852 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner had illegally transported one unit of sand in a tractor, without any permit or valid licence. Hence, the complaint.

3.The learned Government Advocate (CrI. Side) vehemently opposes for the grant of bail to the petitioner stating that the petitioner is a habitual offender having six previous cases.

4.At this juncture, the learned counsel appearing for the petitioner would submit that the petitioner was arrested on 15.07.2020 and he has got only four previous cases. On instruction, he would further submit that the petitioner is in custody for about

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 15.07.2020. Hence, he prays to grant bail to the petitioner.

5.The learned Government Advocate (Crl. Side) would submit that the petitioner shall be insisted to execute a bond before the concerned Executive authorities that he will not indulge in any criminal activities hereinafter.

6.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.25,000/- (Rupees Twenty Five Thousand only) to the Vishranthi Charitable Trust, S/B.Account No.086310000198, IFSC No. BKDN0620863, Dena Bank, Alwarpet Branch, 83, T.T.K.Road, Alwarpet, Chennai-600 018** 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) the petitioner shall within 4 weeks of release from jail execute a bond before the concerned Executive Magistrate with sureties to keep good behaviour that he will not indulge in any criminal activities hereinafter for a period of two years.

(d) 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, Thirukazhukundram, and furnish two sureties for a sum of Rs.10,000/-each failing which the bail granted by this Court shall stand dismissed automatically.

(e) 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.

(f) 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;

(g) the petitioner shall not commit any offences of similar nature;

(h) the petitioner shall not abscond either during investigation or trial;

(i) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(j) 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];

(k) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

07/09/2020

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
THIRUKAZHUKUNDRAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUKAZHUKUNDRAM POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE VISHRANTHI CHARITABLE
TRUST, S.B.ACCOUNT NO.086310000198, IFSC NO.
BKDN0620863, DENA BANK, ALWARPET BRANCH, 83,
T.T.K.ROAD, ALWARPET, CHENNAI-600 018

6 THE OFFICER INCHARGE,
DISTRICT JAIL, CHENGALPATTU.

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

CRL OP.13190/2020

Date :07/09/2020

TA-16/09/2020