

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 13703 of 2020

1.Vembaiyan (Male/Aged 45 years),
S/o.Govindaraj,
West street, Oothukadu Vilage,
Valangaiman Taluk, Thiruvarur District.

2.Chinnadurai (M/65 yeas),
S/o.Koothaiyan,
West Street, Oothukadu Village,
Valangaiman Taluk, Thiruvarur District.

3.Chinnappa (M/55 years),
S/o.Vadivelu,
Main road, Oothukadu Village,
Valangaiman Taluk, Thiruvarur District.

4.Dhanavanthan (M/49 years)
S/o.Rethinavelu,
East Street, Oothukadu Village,
Valangaiman Taluk,
Thiruvarur District.

सत्यमेव जयते

... Petitioners/Accused Nos.1-4

Vs.

The State represented by,
The Inspector of Police,
Valangaiman Police Station,
Thiruvarur District.

Crime No. 1766 of 2020.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to
enlarge the petitioners on bail in Crime No. 1766 of 2020, pending
investigation on the file of the Inspector of Police, Valangaiman
Police Station, Thiruvarur District.

For Petitioners : Mr.Swamisubramanian
For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 15.08.2020 for the offences punishable under Sections 430 & 379 of IPC in Crime No. 1766 of 2020 on the file of the respondent police, seek bail.

2 The case of the prosecution is that the petitioners had illegally transported quarter unit of river sand by using Bullock Carts, without any permit or valid licence. Hence, the complaint.

3 The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. On instruction, he would further submit that taking into consideration the Covid pandemic situation the petitioners without prejudice to his defence, are prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 15.08.2020. Hence, he prays to grant bail to the petitioners.

4 The learned Government Advocate (Crl. Side) would submit that the petitioners had illegally transported two unit of river sand in four bullock courts without any valid licence or permit. Hence he vehemently opposes to grant bail to the petitioners.

5 In order to curb the illegal sand mining activities and 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 each petitioner shall be directed to make a payment/donation of a sum of Rs.5,000/- (Rupees Five Thousand only) to the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, e-mail: jscmprf@tn.gov.in or by Electronic Clearing System (ECS) to Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and on such payment and production of proof they shall be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(a) the petitioners 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.

(b) thereafter on their 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 District Munsif cum Judicial Magistrate, Valangaiman, 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.

(c) Merely, because the petitioners deposits 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.

(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 petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/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];

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

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

-sd/-

04/09/2020

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE,
VALANGAIMAN, THIRUVARUR DISTRICT

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

2 THE OFFICER INCHARGE
SUB-JAIL, MANNARGUDI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE JOINT SECRETARY & TREASURE
CHIEF MINISTERS PUBLIC RELIEF FUND,
FINANCE[CMPRF]DEPARTMENT,
GOVERNMENT OF TAMIL NADU, SECRETARIAT,CHENNAI-600 009.
TAMILNADU

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CHIEF MINISTERS PUBLIC RELIEF FUND,
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GOVERNMENT OF
TAMIL NADU, SECRETARIAT,CHENNAI-600 009.
TAMILNADU

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

CRL OP.13703/2020

Date :04/09/2020

RD 08/09/2020



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