

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2020

CORAM :

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

CrI.O.P.No.13754 of 2020

1.Murugesan,
S/o.Vairaperumal

2.Murugadoss,
S/o.Natarajan

3.Hariraj,
S/o.Kumar

... Petitioners

Vs.

State Rep. By its
The Station House Officer,
through the Inspector of Police,
Thiruthuraipoondi Police Station,
Thiruvarur District.
(Crime No.2353 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioners/accused on bail, pending investigation in Crime No.2353 of 2020 on the file of the respondent police.

For Petitioners

: M/s.Santhanamari

For Respondent

: Mr.T.Shunmugarajeswaran
Government Advocate (CrI.Side)

ORDER

(The case has been heard through video conference)

The petitioners, who was arrested and remanded to judicial custody on 19.08.2020 for the offences punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation Act) 1957, in Crime No.2353 of 2020, seek bail.

2. The case of the prosecution is that the petitioners had illegally transported each 2 ½ units of sand in three Tipper Lorry, 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-19 pandemic situation the petitioners without prejudice to their defence, are prepared to

make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 19.08.2020. Hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) would submit that the petitioners had illegally transported each 2 ½ units of sand in three Tipper Lorry without any valid licence or permit. He would further submit that there are no previous case against the petitioners. 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 each of the petitioners shall be directed to make a payment/donation of a sum of Rs.10,000/- (Rupees Ten 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), before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(b) 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.

(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 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 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.

(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 petitioners shall not commit any offences of similar nature;

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

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

(h) the petitioners 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 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.

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 JUDICIAL MAGISTRATE,
COURT, THIRUTHURAI POONDI

2 THE SUPERINTENDENT,
CENTRAL PRISON, NAGAPATTINAM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
THROUGH INSPECTOR OF POLICE,
THIRUTHURAIPOONDI 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,
TAMIL NADU

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

CRL OP.13754/2020

Date : 04/09/2020

RD 08/09/2020

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