

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.13945 of 2020

1. Kamaraj
2. Kumaresan

... Petitioners

Vs.

The State rep. by
The Inspector of Police
Thiruthuraipoondi Police Station,
Thiruvavarur District.
(Crime No.2352 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439
Cr.P.C. to enlarge the petitioners on bail in Crime No.2352 of
2020 on the file of the respondent police.

For Petitioner : Mr.Swami Subramanian

For Respondent : Mr.Shunmugarajeswaran

Government Advocate (Cr1. 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 19.08.2020, for the offence punishable under
Section 379 IPC r/w Section 21 (1) of Mines and Minerals
(Development & Regulation) Act in Crime No.2352 of 2020 on the
file of the respondent police, seek bail.

2.The case of the prosecution is that on 19.08.2020 at
about 01:00 p.m. on secret information, the defacto complainant,
the Assistant Geological Officer, intercepted the vehicle driven
by the petitioners and found the 1st petitioner had illegally
transported 3 Sq. Meter of sand in a Tractor and the 2nd
petitioner had transported 12 Sq.Meter of sand by using lorry
without any permit or valid licence. Hence, the complaint.

3. The learned Counsel for the petitioners would submit that the petitioners are only drivers of the vehicle and they have not committed any offence as alleged by the prosecution. However, on instructions, he would submit that 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) vehemently opposes for the grant of bail to the petitioners stating that the petitioners along with other accused committed theft of sand approximately 5 units, by using tractor and tipper lorry.

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 petitioners shall be directed to make a **payment / donation for a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) each, 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 their executing 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;**

(a) the petitioners shall report before the respondent police every day at 10.30 a.m. for a period of two weeks and thereafter 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 **learned Judicial Magistrate, Thiruthuraipoondi, Thiruvarur 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 deposit 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

08/09/2020

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,
THIRUTHURAIPOONDI,
THIRUVARUR DISTRICT.

2 THE JAILER,
SUB JAIL, MANNARGUDI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 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

6 THE INDIAN OVERSEAS BANK,
SECRETARIAT BRANCH, CHENNAI 600 009,
S.B.ACCOUNT NO.11720 10000 00070,
IFS CODE IOBA0001172, CMPRF PAN: AAAGC0038F

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

CRL OP.13945/2020

Date :08/09/2020

MK:11/09/2020

WEB COPY