

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2020

CORAM :

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

CRL.O.P.No.14350 of 2020

N.Prithiviraj
S/o.Nadimuthu

... Petitioner

Vs.

The State Represented by
Inspector of Police
B-5, Manavala Nagar Police Station,
Thiruvallur District.
Crime No.1783 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.1783 of 2020 on the file of the Inspector of Police, B-5, Manavala Nagar Police Station, Thiruvallur District.

For Petitioner : Mr.D.Gopikrishnan
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 27.08.2020 for the offence punishable under Sections 379, 430 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.1783 of 2020, seeks bail.

2.The case of the prosecution is that the petitioner had illegally transported five (5) bags of sand in his two wheeler, without any permit or valid license. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner was earlier implicated in Crime No.1488 of 2020 and while the petitioner applied for an anticipatory bail and was awaiting for orders, the respondent police has foisted this case in Crime No.1783 of 2020 as if the petitioner had committed theft of sand and arrested the petitioner in this case. On instruction, he would further submit that taking into consideration of 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 27.08.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner had illegally transported five (5) bags of sand in his two wheeler without any valid licence or permit. Hence he vehemently opposed to grant bail to the petitioner. He would further submit that the petitioner has two previous cases to his credit.

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 non refundable payment / donation for 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 he shall be released on bail on his 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;

(a) the petitioner shall within a period of two weeks from the date of the commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate-II, Thiruvallur, failing which the bail granted by this Court shall stand dismissed automatically;

(b) 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.

(c) 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.

(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 petitioner shall not commit any offences of similar nature;

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

(g) the petitioner 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 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];

(i) 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/-
15/09/2020

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,
NO.II, THIRUVALLUR

2 THE JAILER
SUB-JAIL, TIRUTTANI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
B-5, MANAVALAR NAGAR POLICE STATION,
THIRUVALLUR DISTRICT.

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

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

CRL OP.14350/2020

Date :15/09/2020