

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2020

CORAM :

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

CRL.O.P.No.14750 of 2020

- 1) Arivalagan
- 2) Rajmohan

... Petitioners

Vs.

State Rep by Inspector of Police,  
Valagaiman Police Station,  
Thiruvarur District.  
(Crime No. 1812 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners/accused on bail in Crime No.1812 of 2020 on the file of the respondent police.

For Petitioners : Mr.R.Nalliyappan

For Respondent : Ms.S.Thankira  
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 22.08.2020 for the offences punishable under **Sections 430 and 379 of IPC, in Crime No.1812 of 2020**, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners had illegally transported one (1) unit of river sand in a tractor, without any permit or valid license. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. On instruction, he would further submit that taking into consideration of the Covid pandemic situation, the petitioners without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 22.08.2020. Hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) would submit that the petitioners had illegally transported one (1) unit of river sand in a Tractor, without any valid license or permit.

Hence she vehemently opposed to grant bail to the petitioners. She would further submit that the petitioners have no previous cases to their credit.

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 jointly directed to make **a payment / donation for a sum of Rs.10,000/- (Rupees Ten Thousand only)** to the **"Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172"** 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 petitioners have been confined and thereafter on their release;

(a) the petitioners 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, Valangaiman**, failing which the bail granted by this Court shall stand dismissed automatically;

(b) 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.

(c) 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.**

(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.

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

-sd/-

22/09/2020

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, VALANGAIMAN
- 2 THE JAILER, SUB JAIL, THARANGAMBADI
- 3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.
- 4 THE INSPECTOR OF POLICE, VALAGAIMAN POLICE STATION,  
THIRUVARUR DISTRICT.

5 CHIEF MINISTERS PUBLIC RELIEF FUND,  
INDIAN OVERSEAS BANK, SECRETARIAT BRANCH, CHENNAI  
SB.A/C.NO.117201000000070, IFSC CODE.NO.IOBA0001172

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

CRL OP.14750/2020

Date :22/09/2020

GKS:24/09/2020