

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2020

CORAM :

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

CRL.O.P.No.14973 of 2020

Sarath Kumar

... Petitioner

Vs.

State By

The Inspector of Police
Vanapuram Police Station,
Thiruvannamalai District.
Crime No.2539 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.2539 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Silambu Selvan

For Respondent : Mr.Ms.S.Thankira
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 17.08.2020 for the offences punishable under Sections 379, 430, 353, 307 IPC read with 21(1) of MM Act and Section 3(1) of TNPPDL Act, in Crime No.2539 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner had illegally transported 50 kgs. of sand in a two wheeler, without any permit or valid license. The further allegation is that when the police officials attempted to apprehend the petitioner, he abused and prevented them from discharging their duty and also attempted on their life. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an 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 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 17.08.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner was found illegally transporting 50 kgs of sand without any valid permit and when the police officials attempted to apprehend him, he abused them, prevented them from discharging their duty and also attempted on their life. She would further submit that the petitioner has got one previous case in which, investigation has been completed, final report has been filed and it is not taken on file.

5. At this juncture, the learned Counsel for the petitioner would submit that the previous case is of the year 2018, filed against the petitioner for taking sand in a two wheeler.

6. 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 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.1172010000000070, 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 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 No.I, Thiruvannamalai, 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. 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/-
24/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, THIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

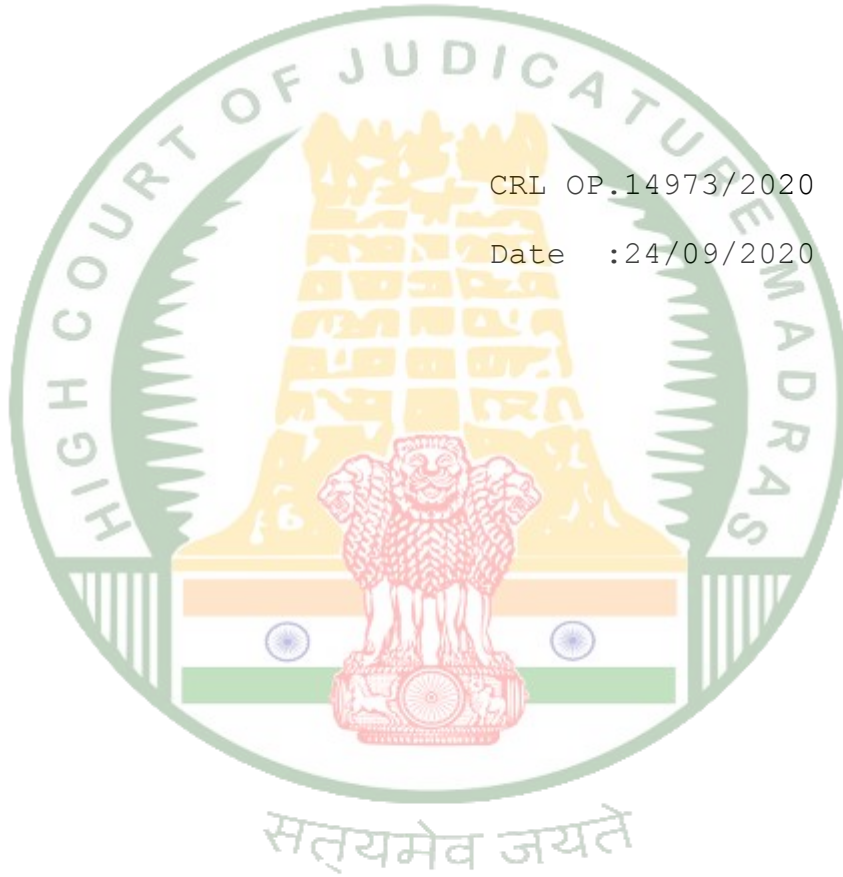
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4 THE INSPECTOR OF POLICE,
VANAPURAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

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

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

cs 25/09/2020



CRL OP.14973/2020

Date :24/09/2020

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