

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.09.2020

CORAM :

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

CRL.O.P.No.15336 of 2020

MUTHAZHAGAN

... Petitioner

Vs.

The State Rep. By
Inspector of Police
Kottur Police Station,
Thiruvarur District
(Crime No.1289 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.1289 of 2020 on the file of the respondent police.

For Petitioner : Mr.Swami Subramanian

For Respondent : 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 16.09.2020 for the offences punishable under Sections 379 of IPC read with Section 21(2) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.1289 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was found to be illegally transporting two (2) units of river sand in a Tipper lorry, without any permit or valid licence.

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 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 16.09.2020.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner was found to be illegally transporting two (2) units of river sand without any valid permit and licence. She would further submit that the petitioner has got no previous cases.

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 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 further condition to execute a bond for a sum of Rs.10,000/- (Ten Thousand only) with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate No.II, Mannargudi, Thiruvavur District, and on further conditions that;

(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/-
29/09/2020

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, MANNARGUDI, THIRUVARUR DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
KOTTUR POLICE STATION,
THIRUVARUR DISTRICT.

4 THE OFFICER INCHARGE,
SUB JAIL, THIRUTHURAIPOONDI

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

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

WEB COPY

CRL OP.15336/2020

Date :29/09/2020

RVR 01/10/2020