

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.17648 of 2020

Murugan

.. Petitioner

Vs.

The State rep. by  
The Inspector of Police,  
Eravanchery Police Station.  
Cr.No.748 of 2020

.. Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.748 of 2020 on the file of the respondent police.

For Petitioner : Mr.C.Deepak Kumar

For Respondent : Mr.T.Shunmugarajeswaran  
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 26.09.2020 for the offences punishable under Sections 430 & 379 of IPC and Section 21(1) of the Mines & Minerals (Development & Regulation) Act, 1997, in Crime No.748 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the Inspector of Police is that on 26.09.2020, the petitioner along with other accused, was found committing theft of river sand by digging the earth up to 10 feet depth, 7 feet width and 20 feet length at the Mananallanur Thirumalairajan River by using JCB without any valid permission.

3. The learned counsel appearing for the petitioner would submit that this is a second application for bail and the earlier application was dismissed by this Court on 22.10.2020. He would submit that the petitioner is the JCB Operator and he had operated the JCB only on the instruction of the owner of the JCB. Other than that he has not committed any offence as alleged by the prosecution. On instructions, he would further submit that the petitioner is prepared to make considerable donation to any charitable Organization or Association, and that the petitioner has been suffering incarceration for more than 45 days from 26.09.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (CrI. Side) would vehemently oppose stating that petitioner is arrayed as A3. The petitioner along with other accused was found committing theft of river sand by digging the earth upto 10 feet depth, 7 feet width and 20 feet length at the Mananallanur Thirumalairajan River by using JCB without any valid permission.

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 condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Nannilam, and on further conditions that;

(a) 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.

(b) 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.

(c) 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;

(d) the petitioner shall not commit any offences of similar nature;

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

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) 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/-

10/11/2020

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,  
NANNILAM

2 THE CHIEF JUDICIAL MAGISTRATE  
THIRUVARUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,  
ERAVANCHERY POLICE STATION,

5 THE OFFICER INCHARGE,  
SUB JAIL, NAGAPATTINAM

6 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. C.DEEPAK KUMAR Advocate on payment of necessary charges SR.7523

WEB COPY CRL OP.17648/2020  
Date :10/11/2020

RVR 11/11/2020