

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.11.2020

CORAM :

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

CRL.O.P.No.17181 of 2020

1. Raja
2. Ganesan
3. Thamaraikannan

... Petitioners

Vs.

State,  
Rep. by Inspector of Police,  
Kadaladi Police Station,  
Tiruvannamalai District.  
(Crime No.2720 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail, in Crime No.2720 of 2020, pending investigation on the file of the respondent police.

For Petitioners : Mr.R.Neelakandan

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

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O R D E R

(The cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 13.10.2020 for the offence punishable under Sections 294(b), 353, 379, 430, 307 of IPC r/w 21(5) of Mines and Minerals (Development & Regulation) Act, 1957 and Section 3 of PPDL Act, 1992, in Crime No.2720 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the *de facto* complainant Ranganadhan, Special Sub-Inspector of Police attached to Kadaladi police station is that on 13.10.2020, when he was on usual rounds, he had seen the accused illegally mining the red sand and when the *de facto* complainant had questioned, the accused had stated that they have already got permission for taking red sand and abused the *de facto* complainant with filthy language and assaulted the police team and also preventing them from discharging their official duty and thereafter, the *de facto* complainant along with his men arrested the accused and brought the lorry to the police station.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners were granted permission by the Competent Authority to take sand for agricultural purpose from the lakes under the control of PWD, by the vehicles mentioned in the said permit, whereas, due to political motive, a false complaint has been given against the petitioners. Hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose to grant bail stating that the accused were doing illegal mining and when the same was questioned by the *de facto* complainant, the petitioner along with other accused abused the *de facto* complainant and his team members with filthy language and also assaulted them with iron rod. He would submit that as far as first petitioner is concerned, there are five previous cases against him and that he has been detained pursuant to the orders passed by the District Collector and District Magistrate, Tiruvannamalai District in D.O.No.123/2020-C2 dated 09.11.2020 and that the petitioners 2 and 3 are concerned, they do not have any previous case against them.

5. Taking into consideration the facts and submissions made by the learned counsels and the fact that the first petitioner has been detained under Act 14/1982, this petition is dismissed in respect of the first petitioner is concerned. Insofar as the petitioners 2 and 3, since they do not have any previous case, this Court is inclined to grant bail to the petitioners 2 and 3 subject to the following conditions:

(a) Accordingly, the petitioners 2 and 3 are ordered to be released on bail on condition to execute a separate 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 District Munsif-cum-Judicial Magistrate, Kalasapakkam, and on further conditions that:

(b) 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;

(c) the petitioners 2 and 3, on their release from prison, shall report before the respondent police everyday at 10.30 a.m. until further orders.

(d) the petitioners 2 and 3 shall not commit any offences of similar nature;

(e) the petitioners 2 and 3 shall not abscond either during investigation or trial;

(f) the petitioners 2 and 3 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 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];

(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/-

09/11/2020

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 DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,  
KALASAPAKKAM, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE  
TIRUVANNAMALAI [FOR INFORMATION]

3 THE SUPERINTENDENT,  
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,  
KADALADI POLICE STATION,  
TIRUVANNAMALAI DISTRICT

+1CC to M/S. R.NEELAKANDAN Advocate on payment of necessary charges SR NO.7426

CRL OP.17181/2020

Date :09/11/2020

MK:10/11/2020