

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

CORAM :

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

CRL.O.P.No.17638 of 2020

1.Krishnan
2.Palanisamy

... Petitioners

Vs.

State Rep by:-

The Inspector of Police,
Mettur Police Station,
Salem District.
(Crime No.561 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.561 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.M.Subash

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

O R D E R

(The cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 08.10.2020 for the offences punishable under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, in Crime No.561 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant, the Circul Revenue Inspector, Mettur, is that on 08.10.2020 at about 9 p.m. the petitioners were found illegally transporting two Granite stones without any valid license or permission.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. However, in instructions, he would further submit that the petitioners are prepared to make considerable donation to any charitable Organization or Association, and that the petitioners have been suffering incarceration for more than 30 days from 08.10.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that petitioners were found illegally transporting two granite stones worth Rs.1 lakh without any valid permission. He would further submit that there is no previous case against the petitioners.

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 directed to make a payment / donation for a sum of Rs.20,000/- (Rupees Twenty Thousand only) each, 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 they shall 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 Judicial Magistrate-I, Mettur, and on further conditions that;

(a) 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.

(b) the petitioners shall report before the respondent police every day 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 petitioners shall not commit any offences of similar nature;

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

(f) the petitioners 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/-

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 NO.I,
METTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
METTUR POLICE STATION,
SALEM DIST.

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.M.SUBASH Advocate on payment of necessary charges

CRL OP.17638/2020

Date :10/11/2020

MK:11/11/2020