

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.17873 of 2020

Ganesh @ Ganeshkumar

... Petitioner

Vs.

State represented by,

... Respondent

The Inspector of Police,
Vaduvoor Police Station,
Thiruvarur District.

(Crime No.1408 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. Praying to enlarge the petitioner on bail in Crime No.1408 of 2020 on the file of the respondent.

For Petitioner : Mr.Swami Subramanian

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 28.10.2020 for the alleged offences punishable under Section 379 of IPC and in Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957, in Crime No.1408 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 28.10.2020, the petitioner along with other accused, was found illegally transporting 3 units of river sand by using Lorry bearing registration No.TN 09 S 6579, without any valid permission.

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 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 from 28.10.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that petitioner is arrayed as A2. The petitioner along with other accused was found transporting 3 units of river sand 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.15,000/- (Rupees Fifteen 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-I, Mannargudi, Thiruvarur District, 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/-
11/11/2020

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,
MANNARGUDI, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VADUVOOR POLICE STATION,
THIRUVARUR DISTRICT.

5 THE JAILER,
SUB-JAIL, THIRUTHURAIPOONDI.

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. SWAMI SUBRAMANIAN Advocate on payment of necessary charges

WEB COPY CRL OP.17873/2020
Date :11/11/2020

TA-18/11/2020