

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2020

CORAM :

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

CRL.O.P.No.18635 of 2020

M.Kannan

... Petitioner

Vs.

The State Rep by its
Inspector of Police,
Koradacheri Police Station,
Thiruvvarur District.
(Crime No.1451 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to grant bail to the petitioner in connection with Crime No.1451 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Aravindan

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 17.09.2020 for the offence punishable under Sections 430 & 379 of IPC r/w 21[1] of Mines and Minerals [Regulation and Development] Act, 1957 in Crime No.1451 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de facto* complainant is that on 17.09.2020, while he was on his routine patrol duty, the petitioner was found in illegal transportation of half unit of river sand by using Bullock cart, without any valid license. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner has no previous case against him. On instruction, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 17.09.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on 17.09.2020, while the *de facto* complainant was on his routine patrol duty, found the petitioner in illegal transportation of half unit of sand by using Bullock Cart, without any valid license. Hence, he opposed to grant bail to the petitioner.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non refundable deposit to the **"Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172"**, without prejudice to his rights and contentions before the trial Court.

6. 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.

7. Taking into consideration the facts and circumstances and the submissions made by the learned counsels and also considering the period of incarceration by the petitioner from 17.09.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) through RTGS/NEFT in favour of the **"Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172"**, on such deposit and production of proof, the petitioner is ordered to 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, Tiruvarur 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 petitioner shall report before respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30.a.m., until further orders.

(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 abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
07/12/2020

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,
TIRUVARUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUVARUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KORADACHERI POLICE STATION,
TIRUVARUR DISTRICT.

5 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGAPATTINAM.

6 THE CHIEF MINISTER'S PUBLIC RELIEF FUND, INDIAN
OVERSEAS BANK, SECRETARIAT BRANCH, CHENNAI
SB.A/C. NO.117201000000070, IFSC CODE. NO.IOBA0001172

CC to M/S.B.ARAVINDAN Advocate on payment of necessary charges

CRL OP.18635/2020

Date :07/12/2020