

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2020

CORAM :

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

CRL.O.P.No.18073 of 2020

Kalaiyaran

... Petitioner

Vs.

The State Rep by
Inspector of Police,
Mathur Police Station
(Crime No.982 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with the case in Crime No.982 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Thirumoorthy

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

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 31.10.2020 for the offence punishable under Section 379 of IPC in Crime No.982 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz., Sivakumar is that on 25.08.2020, while he along with other police officials was on their routine patrol duty, the petitioner was found in illegal transportation of one unit of sand by using Tipper vehicle bearing registration No. TN-30 AY-5059, 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. 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 31.10.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on 25.08.2020, while the respondent police and other police officials were on their routine patrol duty, the petitioner was found in illegal transportation of one unit of sand by using Tipper 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 of the facts and circumstances and also the submissions made by the learned counsels and also considering the period of incarceration by the petitioner from 31.10.2020, 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 District Munsiff cum Judicial Magistrate, Pochampalli 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/-
18/11/2020

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,
POCHAMPALLI

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE JAILER,
SUB JAIL, KRISHNAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MATHUR POLICE STATION.

6 THE CHIEF MINISTERS PUBLIC RELIEF FUND,
INDIAN OVERSEAS BANK,
SECRETARIAT BRANCH, CHENNAI
SB.A/C.NO.117201000000070

+1CC to M/S.R.THIRUMOORTHY Advocate on payment of
necessary charges SR NO.7633

CRL OP.18073/2020

Date :18/11/2020

MK:19/11/2020

MK:20/11/2020



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