

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

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

CRL.O.P.No.18216 of 2020

1.Chinnavan @ Kumar
2.Murugan

... Petitioners

Vs.

STATE REP BY
Inspector of Police,
Edappadi Police Station,
Salem District.
(Crime No.746 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail pending investigation in Crime No.746 of 2020 on the file of the respondent.

For Petitioners : Mr.T.Muruganantham

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

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 28.10.2020 for the offences punishable under Section 379 of IPC and Section 21(1) (4) of Mines and Minerals (Development & Regulation) Act 1957 and Section 3(i) of Prevention of Damage To Public Property Act, 1984, in Crime No.746 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that on 24.10.2020, while he along with other police officials was on their routine patrol duty, the petitioners were found to be illegally transporting one unit of sand in the tractor, without any valid licence. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioners are innocent and they have been falsely implicated in this case. On instruction, he would further submit that without prejudice to his defence, the petitioners are prepared to

deposit considerable amount to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 28.10.2020. Hence, he prays to grant bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on 24.10.2020, while the respondent police and other police officials were on their routine patrol duty, the petitioners were found in illegal transportation of one unit of sand by using Tractor without any valid licence. He would further submit that the 1st petitioner has no previous case and the 2nd petitioner has two previous cases.

5.In order to curb the illegal sand mining activities, this Court is of the opinion that the 1st petitioner viz. Chinnavan @ Kumar, is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) and the 2nd petitioner viz. Murugan is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen 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". on such deposit and production of proof, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Eadappadi and on further conditions that:

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

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

-sd/-
19/11/2020

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, EADAPPADI.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE JAILER
SUB-JAIL, SANKAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
EDAPPADI POLICE STATION,
SALEM DISTRICT.

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.T.MURUGANANTHAM Advocate on payment of necessary charges

CRL OP.18216/2020

Date :19/11/2020