

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 18319 of 2020

1.Mathiyazhagan (A1)

2.Sathish

... Petitioners/Accused 1 - 2

Vs.

The State represented by,

The Inspector of Police,

Peralam Police Station,

Tiruvarur District.

Crime No. 2281 of 2020

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 2281 of 2020, on the file of the respondent police.

For Petitioners : Mr.R.Chakkaravarthy

For Respondent : Mr.T.Shunmugarejeswaran

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 17.10.2020 for the offences punishable under Sections 430 and 379 of IPC, in Crime No. 2281 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were found in illegal possession of one unit of sand, which was collected from the river belt by using JCB without any valid licence. Hence, the complaint.

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, on instructions, he would further submit that without prejudice to their defence, the petitioners are prepared to make considerable donation to any

Charitable Organization or Association and that the petitioners have been suffering incarceration from 17.10.2020. Hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.side) would submit that the petitioners were found in illegal possession of one unit of sand by using JCB without any valid license and that the first accused is the owner of JCB and the second accused is the driver of JCB. He would further submit that there are no previous cases pending against the petitioners. However, he opposed for the grant of bail to the petitioner.

5. In order to curb the illegal sand activities and taking into consideration the voluntary submission made by the petitioners offering to donate/pay considerable donation to any charitable organization or association, this Court is of the opinion that each petitioner shall be directed to deposit a sum of Rs.5,000/- to the credit of **Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172.** On such donation and production of proof, the petitioners shall be released on bail on further condition that each petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a likesum to the satisfaction of the the learned District Munsif cum Judicial Magistrate Court, Nannilam, and on further conditions that;

(a) the petitioners shall report before the respondent police as and when required for interrogation.

(b) Merely, because the petitioners make such donation, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

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

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

-sd/-
24/11/2020

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 COURT, NANNILAM

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR DISTRICT [FOR INFORMATION]

3 THE JAILER, DISTRICT JAIL, NAGAPATTINAM

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PERALAM POLICE STATION, TIRUVARUR DISTRICT

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

+1 CC to M/S. R.CHAKKARAVARTHY Advocate on payment of
necessary charges SR.NO.7795

CRL OP.18319/2020

Date :24/11/2020

GKS:27/11/2020