

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18513 of 2020

P.Thangaraj

... Petitioner

Vs.

The State represented by
The Inspector of Police
Sankari Police Station,
Salem District.
(Crime No.552 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.552 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.M.Esakkiappan

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 01.10.2020 for the offences punishable under Sections 379, 304(ii) of IPC, Section 21(1) of Mines & Minerals (Development & Regulation) Act 1957, Section 3(1) of Prevention of Damage to Public Property Act 1984, Section 9(B)(1)(b) of Explosives Act 1884, Section 3 of Explosive Substances Act, 1908, in Crime No.552 of 2020 pending on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant/Murugan who is a Village Administrative Officer, Devannagoundanur Village, Sankari Taluk, Salem District is that on 30.09.2020, the accused, without obtaining any permission, had blasted the rocks in Survey No.85/2, 3 and also in Survey No.84 which belongs to the Government. During the blast one Palanisamy who is the husband of the second accused and the employee of the first accused, died sustaining injuries. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the accused had blasted the rocks in their land and nearby Poramboke land without obtaining permission. He would further submit that co-accused has already been granted bail by this Court in Crl.O.P.No.17364 of 2020 dated 10.11.2020. He would submit that the petitioner was arrested on 01.10.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose to the grant of bail stating that the petitioner is a person, who has supplied explosive material to A1 and A2. He would further submit that A1 and A2, without obtaining permission, have illegally blasted the rocks in their land and also in adjoining Poramboke land. During the blast, the husband of the second accused sustained injury and passed away. He would further submit that the investigation is still pending.

5.Taking into consideration the facts and submissions made by the learned counsels and also the period of incarceration suffered by the petitioner, 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 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 Judicial Magistrate No-I, Sankari 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, on his release from prison, shall report before the respondent police every day 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
03/12/2020

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 NO.I,
SANKARI.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CC to M/S A.ESAKKIAPPAN Advocate on payment of necessary charges

CRL OP.18513/2020

Date :03/12/2020

MK:04/12/2020

<https://hcservices.ecourts.gov.in/hcservices/>