

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18661 of 2020

Pasupathi @ Meivel

... Petitioner

Vs.

State represented by

... Respondent

The Sub Inspector of Police,
Edappady Police Station,
Salem District.

Crime No.746 of 2020.

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.746 of 2020, on the file of the respondent police.

For Petitioner : Mr.Udhayakumar

for M/s.Karan and Uday

For Respondent : Mr.C.Raghavan

Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 24.10.2020 for the offences punishable under Sections **21 (1), 21(4) of Mines and Minerals (Development & Regulation Act) 1957 and 379 IPC and Section 3(1) 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 is that the petitioner was found in illegal transportation of sand from the Periya Eri of Edappady Village by using JCB and two Tractors 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 taking into consideration the Covid pandemic situation

the petitioner without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association. He would submit that the petitioner was arrested on 24.10.2020 and he is suffering incarceration for more than a month. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was found in illegal transportation of sand by using JCB and two Tractors without any valid license. Hence, he opposed to grant bail to the petitioner.

5.In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association this Court is of the opinion that the petitioner shall be directed to make **a payment/donation of a sum of Rs.10,000/- (Rupees Ten Thousand only) as non-refundable deposit through demand draft or RTGS to the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch,** and on such payment 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 The District Munsif Cum Judicial Magistrate, Edappadi, Salem District and on further conditions that:

(a) the petitioner shall report before the respondent police every day at 10.30 a.m. for a period of two weeks and thereafter on every Monday at 10.30 a.m. until further orders.

(b) Merely, because the petitioner deposits 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.

(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 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 Judicial 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/-
27/11/2020

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,
EDAPPADI, SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
EDAPPADY POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

6 THE CANCER INSTITUTE (WIA)
(REGIONAL CANCER CENTRE), ADYAR, CHENNAI -
600020, BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH,

+1 CC to M/S.KARAN AND UDAY Advocate on payment of necessary charges SR.NO.7812

CRL OP.18661/2020

Date :27/11/2020