

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

CRL.O.P.No.20411 of 2020

1.Karikalan
2.Selva

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Gangavalli Police Station,
Salem.
(Crime No.569 of 2020)

.... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.569 of 2020 on the file of the respondent police.

For Petitioners : Mr.M.R.Franklin

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

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 29.11.2020 for the offence punishable under **Sections 379 of IPC r/w 21[1] of Mines and Minerals (Development and Regulation) Act, 1957**, in Crime No.569 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 29.11.2020, while the respondent police was on routine patrol duty, the petitioners were found in illegal transportation of one unit of river sand by using unregistered Mahindra Pickup Van without any valid license. 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. On instruction, he would further submit that without prejudice to their defence, the petitioners are prepared to deposit considerable amount to any charitable Organization or Association, and that the petitioners have been suffering incarceration from 29.11.2020. Hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Cr1.Side) appearing for the respondent would submit that on 29.11.2020, the petitioners were found in illegal transportation of one unit of river sand by using unregistered Mahindra Pickup Van without any valid license. He would further submit that the first petitioner has got one previous case to his credit and that there is no previous case against the second petitioner. However, he opposed to grant bail to the petitioners.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners shall be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each, 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 their rights and contentions before the trial Court.

6. Merely, because the petitioners 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.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioners from 29.11.2020, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are directed to make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only) each**, 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 petitioners are ordered to be released on bail on condition to execute a separate 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 Judicial Magistrate-II, Attur**, 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 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.

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

-sd/-

21/12/2020

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-II,
ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
SALEM.

5 THE JAILER,
SUB-JAIL, OMALUR.

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

+1 C to Mr.M.R.Franklin, Advocate on payment of necessary charges SR.NO.8511

CRL OP.20411/2020

Date :21/12/2020