

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE V.SIVAGNANAM

CRL.O.P.No.21012 of 2020

Govindhan

... Petitioner

Vs.

State by:-

... Respondent

The Inspector of Police
Gurubarapalli Police Station,
Krishnagiri District.
(Crime No.389 of 2019)

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to grant bail to the petitioner pending investigation in Crime No.389 of 2019 on the file of the respondent Police.

For Petitioner : Mr.M.Jayachandran

For Respondent : Mr.L.Charles Premkumar
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 09.12.2020 for the offence punishable under Section 379 of IPC in Crime No.389 of 2019 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 19.09.2019, while the respondent police were on their routine patrol duty, the petitioner was found in illegal transportation of half unit of sand by using Tractor bearing registration No. TN-24 AA-9768, 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 without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable Association, and that the petitioner has been

suffering incarceration from 09.12.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on 19.09.2019, while the respondent police were on their routine patrol duty, the petitioner was found in illegal transportation of half unit of sand by using Tractor without any valid license. He would submit that there is no previous case against the petitioner. However, he opposed to grant bail to the petitioner.

5.In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five 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"**, without prejudice to his rights and contentions before the trial Court.

6.Merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Overall consideration of the facts, the nature of accusation, the nature of offences, the materials in support of the accusation and the circumstances of the case and the period of detention of the petitioner in the judicial custody, 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 make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) 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 petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Krishnagiri 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 shall report before respondent police everyday 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
30/12/2020

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.II, KRISHNAGIRI.

2 THE CHIEF JUDICIAL MAGISTRATE,
KRISHNAGIRI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GURUBARAPALLI POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, HOSUR.

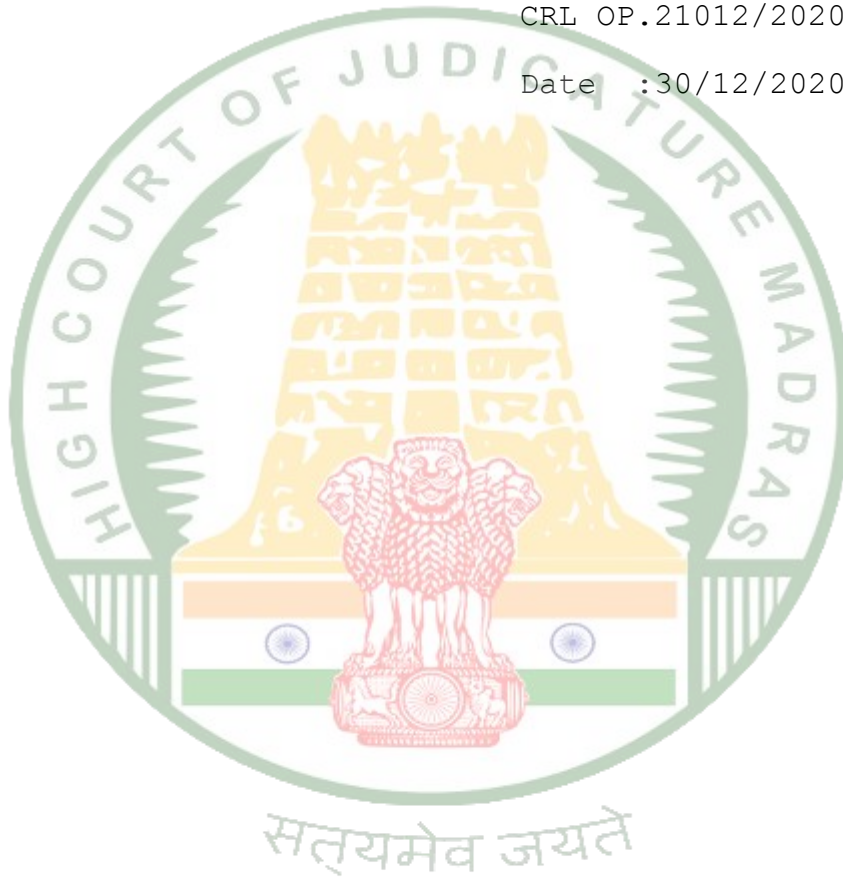
6 CHIEF MINISTER'S PUBLIC RELIEF
INDIAN OVERSEAS BANK, SECRETARIAT BRANCH,
CHENNAI SB.A/C. NO.117201000000070, IFSC
CODE. NO.IOBA0001172

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

CRL OP.21012/2020

Date :30/12/2020

MN-31/12/2020



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