



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/03/2020

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PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) . No.4403 of 2020

Sundar

... Petitioner/4th Accused

Vs

State Rep.by
The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.
[Crime No.45 of 2020]

... Respondent/Complainant

For Petitioner : Mr.D.Venkatesh,
Advocate.

For Respondent : S.Chandrasekar,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.45 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A4, who was arrested and remanded to Judicial Custody on 19.02.2020, for the offence punishable under Section 379 I.P.C., in Crime No.45 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 19.02.2020 at 06.30 a.m., the respondent police received a secret information about the illicit mining of river sand near Nambiyaru river bed. When the Patrol team went near Nambiyaru river bed, they saw the accused standing with unregistered Pulsar two wheeler in a suspicious manner. On seeing the Patrol team, the petitioner tried to fled away from the place. However, the team apprehended him and enquired. He confessed to the Patrol team that he was standing as an Escort to watch whether any police arrive, since his associates were mining river sand in the Nambiyaru river bed and loading it in Ashok Leyland vehicle, bearing Registration No.TN-76-AD-5509. When the team tried to seize the said vehicle, the persons mining the



sand fled away from the scene of occurrence in the said vehicle with ½ unit of sand, worth Rs.2,000/-. Based on the information given by S.Sajeev, F.I.R. has been registered against one Muthuvel, Moorthy and Padayappa, besides the petitioner herein. Except the petitioner, all other three accused are still in abscondance.

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3.The learned counsel appearing for the petitioner would submit that the petitioner is noway connected with the alleged sand mining. He was taken from his house by the respondent police and the case has been foisted against him.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner and the other absconding accused are habitual sand miners without proper permit or license. Based on the information, the Patrol team went to the scene of crime, but before that, the other accused persons fled away from the scene of occurrence along with the vehicle and mined sand. The investigation team is in search of the absconding accused. If the petitioner is released on bail, he will not be available for investigation. Further, the learned Additional Public Prosecutor would submit that against this petitioner, there are six cases pending, out of which, four cases are in connection with sand theft.

5.The petitioner was arrested on 19.02.2020 and his vehicle has already been seized. The respondent police is in search of the other accused, who have absconded with sand. In the said circumstances, since the petitioner has already been in prison for nearly 20 days, this Court is inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Nanguneri; and on further conditions that,

[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[b]the petitioner shall deposit a sum of Rs.40,000/- (Rupees Forty Thousand only) to the credit of Crime No.45 of 2020 before the learned Judicial Magistrate, Nanguneri, without prejudice to his defence before the Trial Court;

[c] the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders or till the filing of the final report, whichever is earlier;

[d] the petitioner shall not abscond either during investigation or trial.



[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
11/03/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE, NANGUNERI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
NANGUNERI POLICE STATION, TIRUNELVELI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.D.VENKATESH, Advocate (SR-5206[I] dated 12/03/2020)

ORDER
IN
CRL OP(MD) No.4403 of 2020
Date :11/03/2020

MS/PN/SAR-1/12.03.2020/3P.7C