

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.2043 of 2021

S.Sankar,
S/o. Sellamuthu,
C2, Ellukka Medu,
Arunthathiyar Street,
Mothaiyanur, Sankari West,
Salem Dt.

... Petitioner

Vs.

The State Rep. by
The Sub-Inspector of Police,
Sankari Police Station,
Salem Dt.
(Crime No.24 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.24 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.G.Arul Murugan

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

This matter is taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the petitioner.

2. The learned counsel for the petitioner submitted that earlier, this Court, by an order dated 08.02.2021 granted bail to the petitioner. However, in the said order, due to oversight, in paragraph-1, one of the provisions viz., Section 379 of I.P.C. has been left out.

3. Considering the above submission, the paragraph-1 of the order shall be substituted as follows:

"The Petitioner, who was arrested and remanded to judicial custody on 09.01.2021 for the offence punishable under Section 379 of Indian Penal Code, Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 3(1) of Prevention of Damage to Public Property Act, 1984, in Crime No.24 of 2021, seeks bail."

4. Registry is directed to incorporate above correction in the Order of this Court in Cr.O.P.No.2043 of 2021 dated 08.02.2021 and issue fresh order copy to the petitioner.

15.02.2021

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For Petitioner : Mr.G.Arul Murugan

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 09.01.2021 for the offence punishable under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 3(1) of Prevention of Damage to Public Property Act, 1984, in Crime No.24 of 2021, seeks bail.

2. Totally, there are two accused and the petitioner is arrayed as A1. The case of the prosecution is that the petitioner said to have transported 25 tons of limestone illegally without any valid permit from the patta lands. Hence, the petitioner was arrested on 09.01.2021 and a case has been registered against the petitioner. Now, he has filed this petition seeking for bail.

3. The learned counsel for the petitioner would submit that the petitioner is the driver of a lorry and on instructions of A2, who is owner, and who is having valid lease for the period of 50 years till 2025, he has transported the goods. He would submit that he is an innocent person and he is no way connected with the offence. He would further submit that he has been falsely implicated in this case. Hence, he seeks

for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is the driver of the lorry and he has transported 25 tons of limestone without any valid permit. She would submit that he is judicial custody for the past 25 days. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that the petitioner is driver of the vehicle, only on the instructions of A1, he has transported the goods and also considering the period of incarceration suffered by the petitioner from 09.01.2021, 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 for a like sum to the satisfaction of the learned 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 daily at 10.30 a.m., for the period of

two weeks;

(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.

08.02.2021

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To

1. Judicial Magistrate No.I,
Sankari
2. The Sub-Inspector of Police,
Sankari Police Station,
Salem Dt.
- 3.The Superintendent,
Sub Jail, Sankari.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai

Crl.O.P.No.2043 of 2021

V.BHARATHIDASAN , J.

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08.02.2021