

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3745 of 2021

Raja

... Petitioner

Vs.

State by

The Inspector of Police,
Mathur Police Station,
Krishnagiri District.
Crime No.53 of 2021

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to grant bail to the petitioner pending investigation in Crime No.53 of 2021 on the file of the respondent police.

For Petitioner : Mr. M.Jayachandran

For Respondent : Mrs.M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 13.02.2021 for the offence punishable under Sections 379 of IPC (Sand theft) in Crime No.53 of 2021, seeks bail.

2. The case of the prosecution is that on the date of occurrence, while the respondent police was in regular ride, they found that the petitioner said to have transported sand illegally in his Tipper lorry without having valid license and Government permission, thereby the police had seized the vehicle. Hence, the criminal case has been registered against the petitioner and others.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the offence. He would submit that he has been falsely implicated as accused in this case. On instruction, he would further submit that without prejudice to his right and contentions, he is prepared to deposit/pay some considerable amount to any charitable organization or association and prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent, submitted that the petitioner has transported 3 units of

sand in his Tipper lorry illegally without having valid license and hence, the respondent police had seized the vehicle. He would submit that the petitioner is involved in two previous cases. Hence, she opposed to grant bail to the petitioner.

5. In order to curb the illegal transportation of sand and taking into consideration of the voluntary submission made by the petitioner offering to deposit or to pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to deposit/pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of A/c.No.0918101041798, CNRB0000918, Children Home for Boys under Surabhi Trust, 22/10, 1st street, Kumarasamy Nagar, Villivakkam, Chennai - 600 049, without prejudice to his right and contention before the trial Court.

6. Merely, because the petitioner has deposited 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. Considering the said facts and circumstances of the case and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) The petitioner is directed to pay a sum of Rs.20,000/- (Rupees TwentyThousand only) either through RTGS/NEFT or in cash in favour of Children Home for Boys under Surabhi Trust, 22/10, 1st street, Kumarasamy Nagar, Villivakkam, Chennai - 600 049, A/c.No.0918101041798, CNRB0000918, within fifteen (15) days from the date of receipt of a copy of this order.

(b) On such deposit, 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 Judicial Magistrate, Pochampalli, and on further conditions that:

(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 report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

25/02/2021

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,
POCHAMPALLI

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT,
MADRAS.

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

5 THE OFFICER INCHARGE
SUB JAIL,
HOSUR.

6 CHILDREN HOME FOR BOYS UNDER SURABHI TRUST,
22/10, 1ST STREET, KUMARASAMY NAGAR,
VILLIVAKKAM, CHENNAI - 600 049, A/C.NO.0918101041798,
CNRB0000918

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

CRL OP.3745/2021

Date :25/02/2021

RVR 26/02/2021



WEB COPY