

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3960 of 2021

Periyasamy

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Karipatty Police Station,
Salem District.
(Crime No.77 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.77 of 2021 on the file of respondent police.

For Petitioner : Mr.Karthiyayini Senthilvel

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

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 I.P.C. and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.77 of 2021, seeks bail.

2. The case of the prosecution is that the petitioner is the owner of tipper lorry. On 16.01.2021, when the Village Administrative Officer was on patrolling duty with his subordinates, they have interpreted the petitioner's lorry and found that he said to have transported 3 units of red soil in his tipper lorry without any valid license or permission from the revenue officials. Hence, the criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 13.02.2021, and vehicle has been seized. Now, the present petition has been filed seeking bail.

3. The learned counsel appearing for petitioner would submit that the petitioner has been falsely implicated in this case and he is in jail for nearly one month. He would submit that he is an innocent person and he is no way connected with the offence as alleged in the complaint. 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. Hence, he prayed to grant bail to the

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has transported 3 units of red soil in his tipper lorry without any valid license or permission from the revenue officials. She would submit that there is no previous case pending against the petitioner and the investigation is almost completed. However, she opposed to grant bail to the petitioner.

5. 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.30,000/- (Rupees Thirty Thousand only) to the Anandha Kuzanthaikal Rehabilitation Centre, MR Special Residential School Home, 12 a/lb, Melpatti Road, Kakathopu Village, Chettikkupam Post, Gudiyatham, Vellore Dt. (Contact : Mobile No.90478 18174), A/c.No.950101028130 IFSC.No. CNR B0000950 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. Taking note of the facts and circumstances and also considering the fact that the investigation is almost completed, there is no previous case pending against the petitioner and also considering the period of incarceration suffered by the petitioner from 13.02.2021, this Court is inclined to grant bail to the petitioner subject to the following stringent conditions :-

(a) The petitioner is directed to pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) either through RTGS/NEFT or in cash in favour of Anandha Kuzanthaikal Rehabilitation Centre, MR Special Residential School Home, 12 a/lb, Melpatti Road, Kakathopu Village, Chettikkupam Post, Gudiyatham, Vellore Dt. (Contact : Mobile No.90478 18174), A/c.No.950101028130 IFSC.No. CNR B0000950, within fifteen (15) days from the date of receipt of a copy of this order. 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 District Munsif cum Judicial Magistrate, Vazhappady, 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.

-sd/-

01/03/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE,
VAZHAPPADY

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT,
MADRAS.

4 THE INSPECTOR OF POLICE,
KARIPATTY POLICE STATION,
SALEM DISTRICT

5 THE OFFICER INCHARGE,
SUB JAIL, OMALUR,
SALEM DISTRICT.

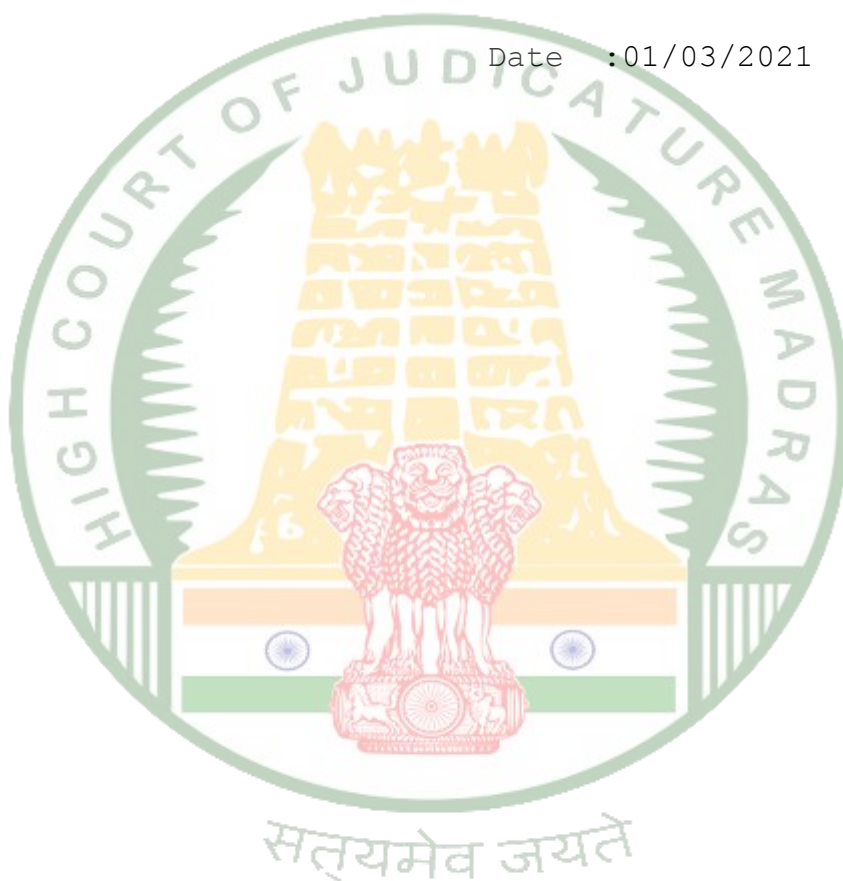
6 ANANDHA KUZANTHAICAL
REHABILITATION CENTRE, MR SPECIAL
RESIDENTIAL SCHOOL HOME, 12 A/1B, MELPATTI
ROAD, KAKATHOPU VILLAGE, CHETTIKKUPAM POST,
GUDIYATHAM, VELLORE DISTRICT.

CC to M/S.KARTHIYAYINI SENTHIVEL Advocate on payment of
necessary charges Sr.2490

CRL OP.3960/2021

Date :01/03/2021

RVR 02/03/2021



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