

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4295 of 2021

1. Sathish Kumar ... Petitioners
2. Prabhu
3. Shajahan
4. Anshath
5. Mani
6. Ratiesh

Vs.

The State Rep. by ... Respondent
The Inspector of Police,
Thalivasal Police Station,
Salem District.
(Crime No. 112 of 2021)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.112 of 2021 pending investigation on the file of the Respondent.

For Petitioners: Mr A. Rajakumar

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

Petitioners, who were arrested and remanded to judicial custody on 03.02.2021 for the offence punishable under Sections 379 & 420 of IPC and Section 21(i) of Mines and Minerals (Development and Regulation Act) 1957 in Crime No.112 of 2021, seek bail.

2. Totally there are 10 accused and the petitioners are arrayed as A2, A3 and A5 to A8. The case of the prosecution is that the petitioners along with other accused have illegally transported 71 units of gravel sand in the Mahindra Tractor without any valid permit and they have also manufactured imitative river sand with the assistant of compressor Mahendra Tractor JCB. Hence the complaint.

3. The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that the main accused/A1 in this case was already released on bail. Hence, he seeks bail to the petitioners.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners along with other accused have illegally transported 71 units of gravel sand and they have also created fake gravel sand. She would also submit that the first petitioner/A2 was already detained under Act 14 of 1982 on 03.03.2021. However, she opposed to grant bail to the petitioners.

6. Recording the submission of learned Additional Public Prosecutor, this Criminal Original Petition is closed as against the first petitioner/A2, namely, Sathish Kumar.

6. So far as the petitioners 2 to 6 are concerned, considering the fact that the main accused in this case has already been released on bail and also taken into account the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners 2 to 6 subject to the following conditions:

(a) Accordingly, the petitioners 2 to 6 are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Attur, Salem District 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 petitioners shall deposit a total sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non-refundable deposit through RTGS/NEFT in favour of "Sree Ramakrishna Ashram, Melapakkam Moldura, Kukmbinipet, Nemeli Panchayat, Arokkonam, A/c.30256592047, IFSC Code No.SBIN0000793, PH: 9751090208;

(d) the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

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

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

(g) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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

(i) 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/-
09/03/2021

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 JUDICIAL MAGISTRATE-II,
ATTUR, SALEM.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THALAIVASAL POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 SREE RAMAKRISHNA ASHRAM,
MELAPAKKAM MOLDURA, KUKMBINIPET,
NEMELI PANCHAYAT, AROKKONAM,
A/C.30256592047, IFSC CODE NO.SBIN0000793,
PH: 9751090208

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

CRL OP.4295/2021

Date :09/03/2021