

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4777 of 2021

Palanisamy

... Petitioner

Vs.

State Rep. by its
The Inspector of Police,
Jalakandapuram Police Station,
Salem District.
(Crime No.79 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.79 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Senthil Kumar

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 19.02.2021 for the offences punishable under Section 379 of IPC and 21(1) of Mines and Minerals (Development and Regulation) Act , 1957 , seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that the petitioner has illegally transported two units of river sand in the Tipper Lorry without any valid permit. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. Hence, he seeks bail to the petitioner.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has illegally transported one unit of sand. There is no previous case pending as against the petitioner. However, she opposed to grant bail to the petitioner.

6. Considering the facts and circumstances of the case and the fact that there is no previous case pending as against the petitioner, and also taken into account the period of incarceration undergone by the petitioner, 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 their executing 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 Judicial Magistrate II, Mettur, 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 petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non-refundable deposit through RTGS/NEFT in favour of "MDM Children Home for Boys, Sathumadhurai, Kaniyambadi, Vellore District, A/c.53601000014256, IFSC Code No.IOBA0000536, PH: 9952585195;

(c) the petitioner, on his release from prison, shall appear before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter, as and when required for interrogation.

(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.

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

-sd/-
11/03/2021

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 NO.II,
METTUR, SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
JALAKANDAPURAM POLICE STATION,
SALEM DISTRICT.

6 THE "MDM CHILDREN HOME FOR BOYS,
SATHUMADHURAI, KANIYAMBADI,
VELLORE DISTRICT,
A/C.53601000014256, IFSC CODE NO.IOBA0000536,
PH: 9952585195;

CC to Mr.M.Senthil Kumar Advocate on payment of necessary charges

CRL OP.4777/2021

Date :11/03/2021

MK:12/03/2021