

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4961 of 2021

A. Murugan

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Tanipadi Police Station,
Thiruvannamalai District.
(Crime No.74 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.74 of 2021 on the file of the respondent police.

For Petitioner : Mr. R. Bhagawat Krishna

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 23.02.2021 for the offence punishable under Sections 5 and 6 of the Explosive Substance Act 1908 in Crime No.74 of 2021, seeks bail.

2. The case of the prosecution is that on 23.02.2021, the petitioner has illegally transported ideal power 90-25 Nos., and ED-25 Nos., without any valid licence. Based on his confession, the respondent police has also seized huge quantity of Explosive Substances from the godown belongs to A2, namely, Pachar Rajesweran. Now, seeking bail, the present petition has been filed.

3. The learned counsel for the petitioner would submit that the petitioner is only a driver and on the instruction of A2, owner, he has transported small quantity of gun power and he has not involved in any other offence. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that without having any valid licence the petitioner has transported explosive substances and based on his confession huge quantity of explosive substances kept in the godown, belongs to A2, have been seized. Now, A2 is still absconding. Investigation is still pending.

5. Considering the facts and circumstances of the case, and the fact that the petitioner is only the driver and he only said to have transported small quantity of explosive substances on the instruction of A2 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) 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 each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Tandarampet 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 release from the prison, shall report before the respondent police daily at 10.30 a.m., until further orders;

(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/-
18/03/2021

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,
TANDARAMPET.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
TANIPADI POLICE STATION,
THIRUVANNAMALAI DISTRICT.

+1CC to M/S.R.BHAGAWAT KRISHNA Advocate on payment of
necessary charges SR NO.3598 सत्यमेव जयते

CRL OP.4961/2021

Date :18/03/2021

MK:19/03/2021

WEB COPY