

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.6088 of 2021

1. Paranthaman
2. Hemadass

... Petitioners

Vs.

State rep. by
The Inspector of Police,
Katpadi Police Station,
Vellore Dt.
(Crime No.117 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Cr.No.117 of 2021 on the file of the respondent Police.

For Petitioners : Mr.R.Syed Mustafa

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

O R D E R

(The case has been heard through video conference)

The petitioners are arrayed as A1 and A2. The petitioners, who were arrested and remanded to judicial custody on 13.03.2021 for the offence punishable under Sections 286 of I.P.C. and under Section 5 of Explosive Substances Act, 1908, in Crime No.117 of 2021, seek bail.

2. The case of the prosecution is that the petitioners said to have transported 15 boxes containing 3000 nos. of jellatin sticks and 2000 nos. detonators and 1500 m. (1 box) detonating fuse, without proper invoice. Hence, the respondent had seized the vehicle and also explosives. Accordingly, a criminal case has been registered, and the petitioners were arrested and remanded to judicial custody on 13.03.2021. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for petitioners would submit that the 2nd petitioner is a licensee for storing explosive substances and the license was renewed on 27.01.2020, which is valid upto 31.03.2025. As per the license, he is entitled to store 1800 kgs. of Nitrate Mixture, 15000 mtrs. of detonating fuse, 44000 nos. of electric and/or ordinary detonators and 5000 mtrs. of safety fuse. Hence, the petitioners have possessed explosive substances, which are under the permissible limit as per the Rules and he has also produced the copy of license. But, without verifying the same, the respondent police have seized the substances and arrested the petitioners. He would submit that they are innocent persons and they have been falsely implicated in this case. He would submit that the petitioners have no bad antecedents and they are in jail for nearly one month. Hence, he prayed to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that at the time of seizure of the vehicle, the petitioners did not produce any license and however, as per the Explosive Substance Rules, the petitioners are not supposed to transport both detonators and jellatin sticks together and in violation of conditions, they have transported the same. Hence, a criminal case has been registered against the petitioners. She would submit that the investigation is almost completed and there is no bad antecedents against the petitioners. Hence, she opposed to grant bail to the petitioners.

5. On perusal of materials, it could be seen that the petitioners possessing due license for the use of explosive substances and the materials seized is also seems to be under the permissible limit. The another allegation is that the petitioners have transported impermissible explosive substances together. On considering the facts and circumstances, and also considering the period of incarceration suffered by the petitioners for nearly one month, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are 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, Katpadi, 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, after their release from prison, shall report before the respondent police as and when required for interrogation;

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

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

(f) the petitioners 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 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 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/-
31/03/2021

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,
KATPADI.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE OFFICER INCHARGE,
SUB-JAIL, GUDIYATHAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

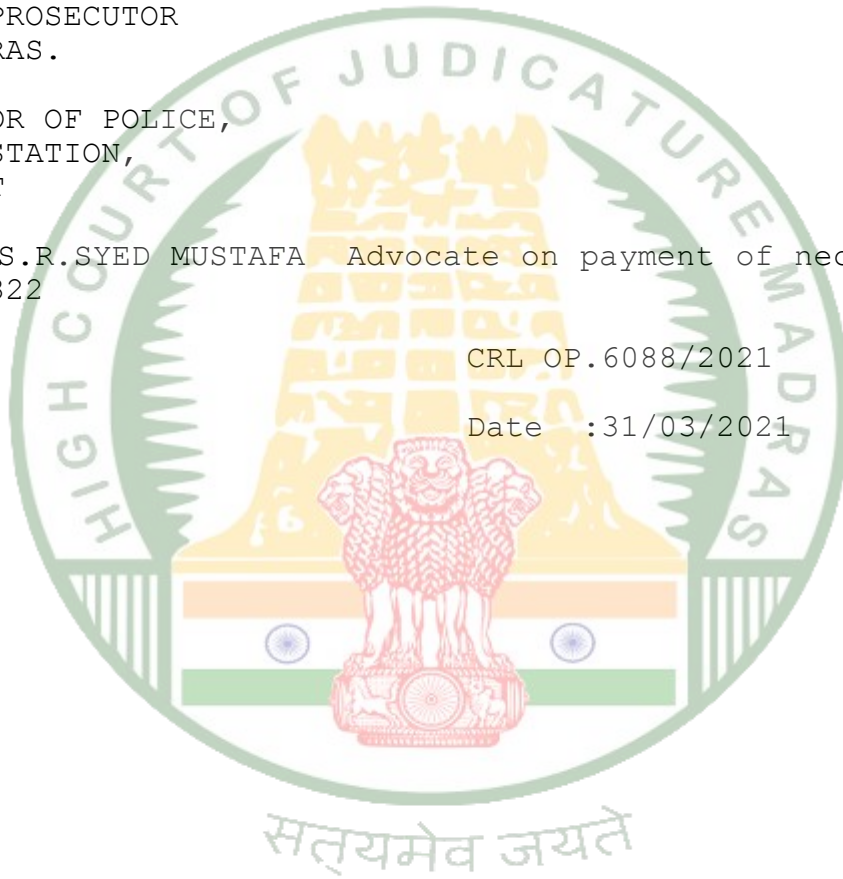
5 THE INSPECTOR OF POLICE,
KATPADI POLICE STATION,
VELLORE DISTRICT

+1CC to M/S.R.SYED MUSTAFA Advocate on payment of necessary
charges SR NO.4322

CRL OP.6088/2021

Date :31/03/2021

MK:31/03/2021



WEB COPY