

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.04.2021

CORAM :

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No.7527 of 2021

Keerai Prakash @ Prakash

... Petitioner

Vs.

State represented by
The Inspector of Police,
Velur Police Station,
Namakkal District.
(Crime No.321 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.321 of 2021, on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.M.Prabhavathi
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 20.03.2021 for the offence punishable under Section 379 of IPC, in Crime No.321 of 2021, seeks bail.

2. There are totally four accused in this case and the petitioner is arrayed as A1. It is the case of the prosecution that the petitioner and A2 were illegally carrying river sand in three gunny bags, each containing 25 kgs, by using two wheelers bearing Registration No.TN-47-AJ-6948, TN-88-X-0643 and TN-88-WE-1832 without any valid license. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. However, on instructions, he would further submit that the petitioner, without prejudice to his rights, is ready to deposit the amount that is to be imposed by this Court to the Mineral Foundation Trust.

4.The learned Additional Public Prosecutor submitted that the vehicles involved were seized by the respondent police and that there are four previous cases pending against the petitioner and A4 & A5 are still absconding. She further submitted that if the person is caught with illegal sand in the mining area, he has to be directed to deposit the conditional amount to the credit of Crime number. However, in view of formation of District Mineral Foundation Trust in each District, the amount may be deposited to the credit of the said Trust for rehabilitation in the areas affected by illegal sand mining.

5.In view of the rehabilitation undertaken by the State Government under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities and also considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner shall be directed to make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Trust for rehabilitation works.

6. It is made clear that the deposit of the amount by the petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of bail.

7.Considering the facts and circumstances of the case and also considering the submission made by the learned Additional Public Prosecutor, I am inclined to grant bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is ordered to be released on bail on his 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 learned Judicial Magistrate, Paramathy and on further condition that:

(a)the petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) through demand draft to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

(b)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c)the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

(d)the petitioner shall not tamper with evidence or witness either during investigation or trial;

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

(f) on breach of any of the aforesaid conditions, the learned 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]**; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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

-sd/-

22/04/2021

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,
PARAMATHY.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VELUR POLICE STATION,
NAMAKKAL DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
NAMAKKAL.

+1 CC to M/S.W.CAMYLES GANDHI Advocate on payment of necessary charges SR.NO.5179

CRL OP.7527/2021

Date :22/04/2021

TA-22/04/2021

<https://hcservices.ecourts.gov.in/hcservices/>