

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2021

CORAM :

THE HON'BLE MR. JUSTICE M.SUNDAR

CrI.O.P.No.9879 of 2021

JAGAN

... Petitioner

Vs.

State rep. by its
Inspector of Police,
THIRUVARUR TALUK Police Station,
Tiruvarur District.
(Crime No.322 of 2021)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.322 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.J.Jawahar

For Respondent : Mr.A.Gopinath,
Government Advocate (CrI.Side)

ORDER

(The case has been heard through video conference)

Captioned Criminal Original Petition has been filed under Section 438 of 'The Code of Criminal Procedure, 1973' ('Cr.P.C.,' for the sake of brevity) as the petitioner apprehends arrest for alleged offences / alleged offences punishable under Section 430 of 'The Indian Penal Code, 1860' ('IPC' for the sake of brevity) read with Section 21(1) of Mines & Minerals (Development & Regulation) Act, 1957, vide Crime No.322 of 2021, on the file of the Inspector of Police, Thiruvarur Taluk Police Station, Tiruvarur District.

2. In this virtual Court, Mr.J.Jawahar, learned counsel for petitioner and Mr.A.Gopinath, learned State Counsel on behalf of State were heard.

3. Learned counsel for Petitioner submits that there are two accused in the aforementioned case, petitioner is A1 and he is only a driver. To be noted, this Court is informed that A2 is the owner of the JCB. It is also to be noted that this Court is informed that JCB is a reference to a huge earth moving equipment. It is also submitted by the learned counsel for petitioner that no sand has been seized

and the case has been foisted on the petitioner and the co-accused on a complaint by the Village Administrative Officer which itself has been made five days post alleged occurrence.

4. Learned State Counsel on behalf of the respondent, on instructions, submits that there is no dispute that the petitioner has not come to adverse notice of the State or in other words, there are no adverse antecedents qua the petitioner.

5. This Court has also noticed the undisputed factual position that no minerals, much less sand i.e., river sand has been seized and only an earth moving equipment has been seized.

6. In the light of the narrative thus far, this Court is inclined to accede to the prayer for anticipatory bail on conditions adumbrated infra elsewhere in this order.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, before the **learned Judicial Magistrate, Thiruvavur**, on condition that the petitioner shall 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 jurisdictional Magistrate on or before 05.07.2021 or within a fortnight from the date of resumption of work of acceptance of sureties by the jurisdictional Magistrate whichever is later and on further conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may direct production of their Aadhar cards or Bank pass Books to ensure/verify their identities;

(b) the petitioner shall report before the respondent police as and when required for interrogation;

(c) the petitioner shall not tamper with evidence or witnesses either during investigation or trial;

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

(e) if there is 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 per P.K.Shaji principle being law laid down by Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**;

and

(f) though obvious, it is made clear that, if the accused/petitioner herein thereafter absconds, consequences ingrained in Section 229-A IPC will follow wherever applicable.

-sd/-
04/06/2021

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,
THIRUVARUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TIRUVARUR TALUK POLICE STATION,
TIRUVARUR DISTRICT.

CC to M/S.J.JAWAHAR Advocate on payment of necessary charges

CRL OP.9879/2021

Date :04/06/2021

TA-13/07/2021

सत्यमेव जयते

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