

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2021

CORAM :

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10077 of 2021

Jayamanikandan(Ballu)

... Petitioner/Accused No.2

Vs

State Rep.by the Inspector of Police,
Virudampet Police Station,
Vellore District.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1085/2020 pending on the file of the respondent.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.E.Raj Thilak
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner/A2, who was arrested and remanded to judicial custody on 10.05.2021 for the offence punishable under Sections 379, 430 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act in Crime No.1085 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 21.08.2020, this petitioner along with the first accused Jayamurugan were transported each 3 bags of sand (totally 25 kgs of sand) from the river illegally by their two wheelers bearing Reg.Nos.Bajaj Discover Reg.No.TN-23-BD-7529 and Honda DIO respectively. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is not involved in the above alleged offence and he is no way connected with the offence as alleged by the prosecution and he did not commit any offence. On instruction, he would submit that in order to show his bonafide, the petitioner is ready and willing to deposit a sum of Rs.5,000/- in favour of the Advocate Clerk Association, High Court, Madras. Further he submit that the petitioner is in judicial custody for the past one month. Hence, he seeks bail for the petitioner.

4.The learned Government Advocate(Crl. Side) would submit that the quantity of sand involved is 3 bags each (totally 25 kgs of sand) and the same was recovered. He further submitted that there is five previous cases pending against the petitioner and the investigation is pending. Hence, he vehemently opposed for grant of bail to the petitioner.

5.In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017 and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) as non refundable deposit to the credit of the Advocate Clerks Association, High Court, Madras, without prejudice to his rights and contentions before the trial Court.

6.Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7.Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner is in judicial custody from 10.05.2021, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) as non refundable deposit to the credit of the Madras High Court Advocate Clerks Welfare Association (S.B. A/c.No.484077244; IFSC No. IBID000M157) and on such deposit, the petitioner is ordered to be released on bail on condition that he shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison;

[b] thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of fifteen days from the lifting of lock down and commencement of regular functioning of the Court below, failing which the bail granted by this Court shall stand dismissed.

[c]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.

[d]the petitioner shall deposit a sum of Rs.5,000/- (Rupees five thousand only) as non refundable deposit to the credit of the Advocate Clerks Association, High Court, Madras.

[e]the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] the petitioner shall not abscond either during investigation or trial.

[h] 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]**.

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

09/06/2021

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 NO.III,
VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
VIRUDAMPET POLICE STATION,
VELLORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

6 THE MADRAS HIGH COURT ADVOCATE CLERKS
WELFARE ASSOCIATION (S.B. A/C.NO.484077244;
IFSC NO. IBID000M157)

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges

CRL OP.10077/2021

Date :09/06/2021