

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2021

CORAM :

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10092 of 2021

Udhayakumar

.. Petitioner/sole accused

/versus/

State rep.by

Inspector of Police,
Peralam Police Station,
Tiruvarur District.
(Cr.No.633 of 2021)

.. Respondent/complainant

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.633/2021 on the file of the respondent police.

For Petitioner :Mr.T.Muruganantham

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 27.05.2021 for the offence punishable under Sections 430, 379 of IPC in Crime No.633 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 27.05.2021, the petitioner was transporting ½ unit of sand in a Bolero Pickup vehicle bearing Reg.No.TN 50 AC 6152 near Poonthotam Petrol Bunk without any valid permit. Hence, this 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 bona fide, the petitioner is ready and willing to deposit a sum of Rs.10,000/- in favour of the Advocate Clerks Association, High Court, Madras. The petitioner is in judicial custody from 27.05.2021. Hence, he seeks bail.

4.The learned Government Advocate(Crl. Side) would submit that the quantity of sand involved is ½ of unit and the same was recovered 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.10,000/- (Rupees ten 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 27.05.2021, 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.10,000/-(Rupees ten 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.10,000/- (Rupees ten 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

सतयमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NANNILAM.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR [FOR INFORMATION]

WEB COPY

3 THE OFFICER INCHARGE
SUB JAIL, THIRUTHURAIPOONDI.

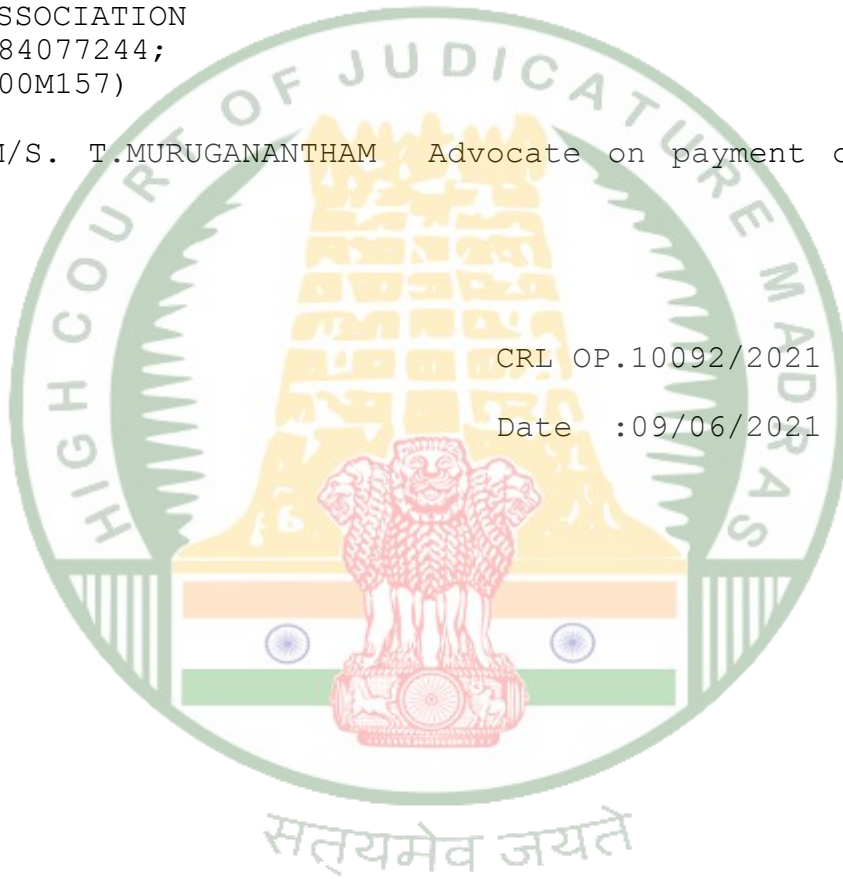
4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PERALAM POLICE STATION,
TIRUVARUR DISTRICT.

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

CC to M/S. T.MURUGANANTHAM Advocate on payment of necessary
charges

cs 10/06/2021



CRL OP.10092/2021

Date :09/06/2021

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