



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2021

WEB COPY

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No.20752 of 2021

Prakash .. Petitioner /Accused-1

Vs.

The State rep. by
The Inspector of Police
Vaduvoor Police Station
Thiruvarur District ...Respondent/Complainant
(Crime No.551 of 2021)

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.551 of 2021 on the file of the Inspector of Police, Vaduvoor Police Sation, Thiruvarur District.

For Petitioner : Mr.Swamisubramanian

For Respondent : Mr.N.S.Suganthan
Government Advocate

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 23.10.2021 for the offences under Sections 379, 294(b), 353 and 307 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957 in Crime No.551 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 22.10.2021 when the respondent police along with his police party were on patrol duty, the petitioner along with other accused was found illegally transporting 1½ units of river sand by using 407 lorry bearing Registration No.TN12 BT 9270 and when the defacto complainant enquired them, the accused abused them in filthy language and also attempted dash the vehicle against the defacto complainant. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he is no way connected with the above said offence and he has been suffering incarceration from 23.10.2021. However, on instructions, he further submitted that the



petitioner, without prejudice to his rights, on his own volition, is ready to pay a sum of Rs.22,500/- to any Charitable institution as may be directed by this Court.

4. The learned Government Advocate would raise objection stating that there are totally 2 accused in this case and the petitioner is arrayed as A1. On the date of occurrence, the accused had illegally transported 1 ½ units of river sand and when it was questioned by the defacto complainant, they attempted to dash the vehicle against the defacto complainant. He would further submit that there is no previous case against the petitioner.

5. 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.22,500/- (Rupees Twenty Two Thousand and Five Hundred Only) to the credit of the Registered Advocates Clerks Association, Thiruvarur District, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Association for the welfare of the Advocates.

6. It is made clear that the deposit of the amount by the petitioner to the Advocates Clerks Association 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 period of incarceration suffered by the petitioner and the fact that there is no previous case against the petitioner, this Court is 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-I, Mannargudi, Thiruvarur District, and on further conditions that:

(a) the petitioner shall make non-refundable deposit a sum of Rs.22,500/- (Rupees Twenty Two Thousand and Five Hundred Only) through demand draft to the Registered Advocates Clerks Association, Thiruvarur, 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 petitioner and 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.

-sd/-
09/11/2021

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.I, MANNARGUDI, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
VADUVOOR POLICE STATION,
THIRUVARUR DISTRICT.

4 THE OFFICER INCHARGE,
SUB JAIL, NANNILAM.

5 THE REGISTERED ADVOCATES
CLERKS ASSOCIATION,
THIRUVARUR DISTRICT.



6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. SWAMISUBRAMANIAN Advocate on payment of necessary
charges SR.NO.12536

CRL OP.20752/2021

Date :09/11/2021

CSK 09/11/2021