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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2021

CORAM:

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

Crl.O.P.No.22136 of 2021

1.Boopathy
2.Venkatachalam
3.Rajendran

... petitioners

Vs.

The State rep by
The Inspector of Police
Thalaivasal Police Station
Salem District.
(Crime No.466 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.466 of 2021 on the file of the respondent police.

For petitioners : Mr.N.Umapathi

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

ORDER

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 31.10.2021 for the offence under Section 379 r/w 34 of IPC, in Crime No.466 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 31.10.2021, the petitioners were found illegally transporting 3 units of lake sand without any valid permit by using 3 Tractors. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are only drivers and they are no way connected with the above said offence and they have been suffering incarceration from 31.10.2021. However, on instructions, he further submitted that the petitioners, without prejudice to their rights, on their own volition,



are ready to pay a sum of Rs.5,000/- each to any Charitable institution as may be directed by this Court.

4.The learned Government Advocate would raise objection stating that the petitioners were found illegally transporting 3 units of lake sand without any licence from the Government.

5.In order to curb the illegal sand mining activities and also considering the submission made by the learned counsel for the petitioners, this Court is of the opinion that the petitioners shall be directed to make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand Only) each, to the credit of the Registered Advocates Clerks Association, Salem, without prejudice to their 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 petitioners to the said 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 petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on their executing separate bonds 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-II, Attur, and on further conditions that:

(a) the petitioners shall make non-refundable deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) each, through demand draft to the Registered Advocates Clerks Association, Salem, without prejudice to their defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioners;

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

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



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

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(f) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

23/11/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, ATTUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
THALAIVASAL POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM



6 THE REGISTERED ADVOCATES
CLERKS ASSOCIATION, SALEM

+1 CC to N.UMAPATHI Advocate on payment of necessary charges
SR.No.13297

CRL OP.22136/2021

Date :23/11/2021

APN 24/11/2021