



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM:

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

Crl.O.P.No.23522of 2021

K.Ashokan

... Petitioner

Vs.

State Represented by
The Inspector of Police,
Karuppur Police Station,
Salem District.
(Crime No.451 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.451 of 2021 on the file of the respondent police.

For Petitioner : Mr.S.Ganeshkumar

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 21.11.2021 for the offences under Section 379 IPC r/w 21(1) Mines and Minerals (Development & Regulation) Act 1957, in Crime No.451 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 21.11.2021 at about 04.05 hrs the petitioner and other accused were found in illegal transporting of five tones of magnesite stones without having any valid documents by using Tractor bearing registration No. TN 29 D 2502 near Karumbalai Amman Way-bridge. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and the petitioner has been suffering incarceration for more than 10 days from 21.11.2021. He would further submit that the petitioner is ready and willing to pay a sum of Rs.25,000/- to any Charitable Institute as may be directed by this Court and he would pray for grant of bail to the petitioner. Hence he prays for grant of bail to the petitioner.



4. The learned Government Advocate (Crl. Side) raised objection stating that the petitioner along with other accused illegally transported five tones of magnesite stones in a Tractor without any permission but admits that there is no previous case against the petitioner.

5. 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.25,000/- (Rupees Twenty Five Thousand Only), to the credit of the Registered Advocate Clerks Association, Salem, 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 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 undergone by the petitioner and the fact that there is no previous case against him and that the investigation is almost completed, 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 II, Salem, and on further conditions that:

(a) the petitioner shall make non-refundable deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) through demand draft to the Registered Advocate Clerks Association, Salem, 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 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/-

07/12/2021

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.II, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

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

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

5 THE REGISTERED
ADVOCATE CLERKS ASSOCIATION, SALEM DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.23522/2021

Date :07/12/2021

CSK 08/12/2021

<https://hcservices.ecourts.gov.in/hcservices/>