



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/03/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.3325 of 2021

1. Apparaji

2. Guna

... Petitioners/Accused No. 1 & 2

Vs

The State rep.by,
The Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
(Crime.No. 35 of 2021)

... Respondent/Complainant

For Petitioner : Mr.K.M.Karunakaran,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate(Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.35 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2 herein who were arrested and remanded to judicial custody on 02.02.2021 for the alleged offence under Sections 379 of IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957, on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners said to have committed theft of $\frac{1}{4}$ unit of river sand using bullock cart. Hence the complaint

3.The learned counsel for the petitioners would submit that he is entitled to the petition in respect of first petitioner and he

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has also made an endorsement to that effect. He would also submit that the second petitioner is innocent and a false case has been foisted against him.

4.The learned Government Advocate(Crl.Side) appearing for the State would submit that sand was recovered by the respondent police. He would also submit that no previous case is pending against the second petitioner.

5.Taking into consideration the facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that no previous case is pending against the second petitioner, this Court is inclined to grant bail to the second petitioner by imposing conditions.

6.Accordingly, the second petitioner is ordered to be released on bail, subject to the following conditions:

[a] the second petitioner shall draw a demand draft in favour of Dean, Thanjavur Medical College and Hospital for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** without prejudice to his rights and contentions before the trial Court. The second petitioner shall produce the proof of remittance /submission of Demand Draft to the concerned Magistrate while executing sureties.

[b] On acknowledgment of the same, the second petitioner shall execute 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 No.II, Thanjavur

[c] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[d] the second 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.

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

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

[g]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second 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)



[h]If the second petitioner thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. As regards the first petitioner this petition is dismissed as withdrawn.

sd/-
03/03/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
THANJAVUR.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR AT KOMBAKONAM.
- 3 THE INSPECTOR OF POLICE
KALLAPERAMBUR POLICE STATION, THANJAVUR DISTRICT.
- 4 THE OFFICER INCHARGE,
SUB JAIL, THANJAVUR.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE DEAN,
THANJAVUR MEDICAL COLLEGE AND HOSPITAL,
THANJAVUR.

ORDER
IN
CRL OP(MD) No.3325 of 2021
Date :03/03/2021

NR/VR/SAR-I (03.03.2021) 3P:7C

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