



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 02/07/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN
CRL OP(MD). No.8729 of 2021

WEB COPY

M.Subburaj

... Petitioner/Accused -1

Vs

State rep by its
The Sub Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District
Crime No. 100/2021.

... Respondent/Complainant

For Petitioner : Mr.Chandrasekar.G.,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No. 100 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 15.06.2021 for the offences punishable under Sections 379 of IPC r/w.Section 21(5) of Mines and Minerals (Development and Regulation)Act, 1957 in Crime No.100 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 15.06.2021 when the respondent police was engaged in prevention of offences relating to mines and minerals on the south east of Kampathu Perumal Kovil they found the accused taking sand using a tractor bearing Reg. No. TN 22 BB 4779. The police apprehended one Subburaj and the accused Muthusamy escaped from there. On enquiry it was revealed that the Subburaj possessed a tractor bearing Reg. No. TN 72 E 3175 and a JCB bearing Reg. No. TN 22 BB 4779 and using the same he indulged in theft of sand. A2 in this was keeping watch over the movement of the police using his two wheeler bearing Reg. No. TN 67 BD 9132 and when the police enquired about another vehicle TN 95 C 5385 he informed that he used the vehicle for raid, thereafter the case came to be registered.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. he would further submit that the petitioner is in judicial custody from 15.06. 2021, hence he seeks bail.



4. The learned Additional Public Prosecutor appearing for the respondent police opposed this petition on the ground that the investigation is not yet completed. He would further submit that no previous case of similar nature is pending against the petitioner.

5. It is seen from the case of prosecution that the aforesaid four vehicles were at the spot and the tractor ³/₄ unit of sand were kept and the accused were not in a position to provide any permit for removing sand.

6. Taking into consideration all these facts and also considering the period of incarceration and also the fact that the material witnesses are only official witnesses and also the fact that no previous case of similar nature is pending against the petitioner, this Court is inclined to grant bail to the petitioner.

7. 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 No.I, Virudhunagar and on further condition that

i) 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.

(ii) the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Coimbatore Advocate Clerk Welfare Association, District Court Branch, Coimbatore (SB Account No.170801000018467, IFSC Code: IOBA0001708), without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties

iii) the petitioner shall report before the respondent police daily at 10.30 am., until further orders.

iv) the petitioner shall not tamper with evidence or witness.

v) the petitioner shall not abscond during trial.

vi) 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].



vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

WEB COPY

/ TRUE COPY /

Sd/-
02/07/2021

/ /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.I, VIRUDHUNAGAR.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
3. THE SUPERINTENDENT, DISTRICT CENTRAL JAIL,
MADURAI.
4. THE SUB INSPECTOR OF POLICE,
VACHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE OFFICER INCHARGE,
COIMBATORE ADVOCATE CLERK WELFARE ASSOCIATION,
DISTRICT COURT BRANCH, COIMBATORE.

+1cc to Mr.G.Chandrasekar, Advocate Sr.No.21006

ORDER
IN
CRL OP(MD) No.8729 of 2021
Date : 02/07/2021