



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.11212 of 2021

Hariharan, ... Petitioner/Accused No.1

Vs

State rep by
The Inspector of Police,
Thanjavur West Police Station,
Thanjavur,
Thanjavur District.
(Crime.No.1124 of 2021). ... Respondent/Complainant

For Petitioner : M/s.Raja.Karthikeyan,
Advocate.
For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.1124 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 28.06.2021 for the offences punishable under Sections 269, 270, 379 of IPC r/w. 21(1) of Mines and Minerals (Development and Regulation) Act, in Crime No.1124 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was illegally transporting one unit of river sand by using a vehicle.

3. The learned Government Advocate (Crl. Side) submits that
<https://hdservices.ecourts.gov.in/hdservices/> the earlier bail petitions were



dismissed on the ground that the petitioner is having two previous cases of similar in nature.

4. The learned counsel for the petitioner submits that the petitioner is languishing in jail for 43 days. In order to show his bona fide, he is ready to pay Rs.5,000/- to the Tamil Nadu Chief Minister's Relief Fund. The learned counsel further submits that he also advised the petitioner to file an undertaking affidavit before the concerned Court that he will not indulge in any such offence in future.

5. Considering the facts and circumstances of the case, the period of incarceration and the fact the petitioner, in order to show his bona fide, is ready to pay a sum of Rs.5,000/- to the Tamil Nadu Chief Minister's Relief Fund, this Court is inclined to grant bail to the petitioners.

6. 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 Judicial Magistrate No.I, Thanjavur and on further conditions that:

[a] 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.

[b] the petitioner shall deposit a sum of Rs.5,000/- (Rupees five thousand only) to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to his contentions before the trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties.

[c] the petitioner shall file an undertaking affidavit before the concerned Court that he will not indulge in any such offence in future.

[d] the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

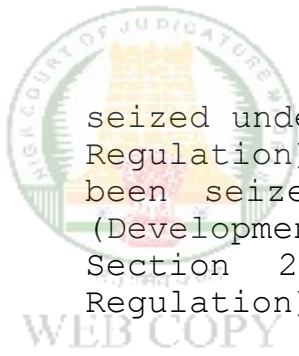
[e] the petitioner shall not abscond either during investigation or trial.

[f] the 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 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]**.

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

7. It is needless to say that any tool or instrument or vehicle used for illegal quarrying/ transportation of sand is liable to be



seized under Section 21(4) of the Mines and Minerals (Development & Regulation) Act and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation) Act.

8. Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities have not invoked the provision of 21 (4-A) of the Mines and Minerals (Development & Regulation) Act 1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasised the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals (Development & Regulation) Act and as per the guide lines issued in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020.

sd/-
11/08/2021

/ TRUE COPY /

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

OGY

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.1,
Thanjavur.
2. Do Through
The Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.



3. The The Officer incharge, District Jail,
Pudukottai.

4. The Inspector of Police,
Thanjavur West Police Station,
Thanjavur, Thanjavur District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to

The Officer Incharge,
Chief Minister's Public Relief Fund,
Finance(CMPRF) Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

ORDER IN
CRL OP(MD) No.11212 of 2021
Date : 11/08/2021

TR\VR\SAR-I(11.08.2021) 4P 7C