



WEB COPY

D.No. 183, North Street,

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 09/09/2021
PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD).Nos.13033, 13034 and 13035 of 2021

ILAYARAJA ... PETITIONER/ACCUSED No.2
IN CRL OP(MD)No.13033, 13034 of 2021

ILAYARAJA ... PETITIONER/SOLE ACCUSED
IN CRL OP(MD)No.13035 of 2021

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
PANDHANALLUR POLICE STATION,
THANJAVUR DISTRICT.
(CRIME Nos. 839, 840 & 841 OF 2021) ... RESPONDENT/COMPLAINANT
IN ALL THE PETITIONES

IN ALL THE PETITIONS:

For Petitioner : Mr.R.ILAYARAJA, Advocate

For Respondent : Mr.T.SENTHILKUMAR,
Government Advocate (Crl. Side)

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

PRAYER:-

For bail in Crime No.839, 840 and 841 of 2021 on the file of the respondent police.

ORDER : The Court Made the following order :-

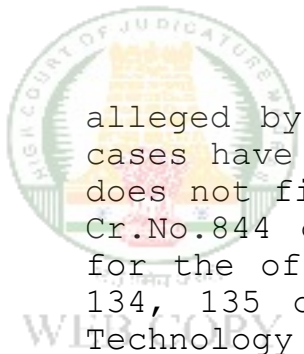
COMMON ORDER

The petitioner herein is arrayed an accused in Cr.Nos.839, 840 and 841 of 2021 and he was arrested on 16.08.2021, for the offence punishable under Section 379 IPC r/w.21(1) of Mines and Minerals (Development and Regulation) Act, 1957. Therefore, he seeks for grant of bail in all the three cases.

2. The case of the prosecution is that the petitioner has illegally transported one unit of river sand by using Tractors and a Tipper lorry on 31.07.2021 and 01.08.2021 in each case.

3. The learned counsel for the petitioner submits that the petitioner is an innocent and he has not committed any offence as

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alleged by the prosecution. He further submits that these three cases have been registered on the same day and the petitioner's name does not find place in any of the three FIRs. Originally, an FIR in Cr.No.844 of 2021 came to be registered as against the petitioner for the offence under Sections 447, 294(b), 269, 270, 353 IPC r/w. 134, 135 of Tamil Nadu Health Act and Section 67 of Information Technology Act, 2000, alleging that the petitioner had abused the Police Officials and had spread hate messages, at that time, he was affected with Covid-19. He has also been enlarged on bail in the said case vide order dated 25.08.2021 in Cr.M.P.No.1858 of 2021, by the learned District Munsif cum Judicial Magistrate, Thiruvidadaimaruthur.

4. The learned counsel for the petitioner further submits that in Cr.No.839 of 2021, the name of accused person, namely, one Arulraj, in Cr.No.840 of 2021 - one Manikandan and in Cr.No.841 of 2021- one Babu have been mentioned and based on their confession statements, the petitioner has been roped-in in all the three cases. He further submits that the said Arulraj(A1) and Manikandan (A1) had been enlarged on bail by the learned Principal Sessions Judge, Thanjavur. Hence, he prayed for grant of bail to the petitioner.

5. The learned Government Advocate (Crl. Side) opposed for grant of bail on the ground that apart from these three cases, the petitioner is having five previous cases, out of which, one case is similar in nature.

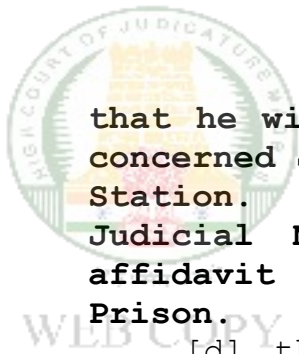
6. Considering the facts and circumstances of the case, the period of incarceration and also the fact that all the three cases have been registered on the single day; the petitioner's name does not find place in all the three cases and only based on the confession statement of the co-accused, the petitioner has been roped-in in these cases and though the petitioner is having one previous case of similar in nature, that case is of the year 2016, this Court is inclined to grant bail to the petitioner in all the three cases.

7. Accordingly, all the Criminal Original Petitions are ordered. The petitioner is directed 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 District Munsif cum Judicial Magistrate, Thiruvidadaimaruthur 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 appear before the respondent police daily at 10.30 a.m., until further orders.

[c] The petitioner shall file an undertaking affidavit in Tamil



that he will not indulge in any such offence in future, before the concerned Judicial Magistrate as well as before the concerned Police Station. On filing of the undertaking affidavit, the concerned Judicial Magistrate shall accept the sureties. The undertaking affidavit should be attested by the concerned Superintendent of Prison.

[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]**.

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

8. 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.

9. 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-2 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-2 Department, dated 05.08.2020.

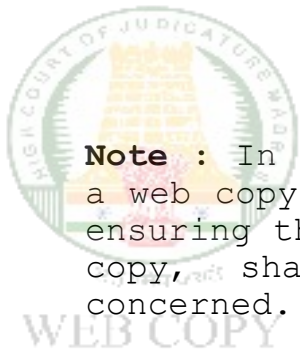
sd/-

09/09/2021

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



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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, THIRUVIDAIMARUTHUR.
- 2.DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
- 3.THE OFFICER INCHARGE
SUB-JAIL, KUMBAKONAM
- 4.THE INSPECTOR OF POLICE
PANDHANALLUR POLICE STATION,
THANJAVUR DISTRICT.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 cc to Mr.R.ILAYARAJA, Advocate, SR.No:6104

ORDER

IN

CRL OP(MD) Nos.13033, 13034,
13035 of 2021

Date :09/09/2021

SA/VR/SAR.4/09.09.2021/4P/7C