



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2022

CORAM:

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

Cr1.O.P.No.1642 of 2022

KAVIYARASAN

.. Petitioner

Vs.

The State rep. by
The Inspector of Police,
Vadapathimangalam Police Station
Thiruvavarur District
Crime No.03 of 2022

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to grant bail to the petitioner in Crime No.03 of 2022 on the file of the respondent police.

For Petitioner : Mr.Swami Subramanian

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

(This case has been heard through video conferencing)

The petitioner who was arrested and remanded to judicial custody on 08.01.2022 for the offence under Sections 379 and 430 IPC in Crime No.03 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 08.01.2022 at about 5.30 a.m., the petitioner was found illegally transporting 1/2 unit of river sand in a tractor. Hence, the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and that he has been suffering incarceration for more than 15 days from 08.01.2022. However, on instructions, he would submit that the petitioner is ready and willing to pay a sum of Rs.5,000/- to any Charitable Institute without prejudice to his rights and contentions as may be directed by this Court and he would pray for grant of bail to the petitioner.



4. The learned Additional Public Prosecutor raised objection stating that the petitioner was found illegally transporting ½ unit of river sand without any valid permit.

5. In order to curb the illegal activities and 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.5,000/- (Rupees Five Thousand Only), to the credit of the Registered Advocates Clerks Association, Thiruvavarur, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Association for the welfare of the Advocates Clerks.

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 facts and circumstances of the case and the fact that the investigation is almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) the petitioner shall make non-refundable deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) through demand draft to the credit of Registered Advocates Clerks Association, Thiruvavarur, without prejudice to his defence before the trial Court and on such deposit, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate-II, Mannargudi, Thiruvavarur District, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police on every Wednesday at 10.30 a.m. until further orders.

(e) the petitioner shall not commit any offences of similar nature;



(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
25/01/2022

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, MANNARGUDI, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
VADAPATHIMANGALAM POLICE STATION,
THIRUVARUR DISTRICT.

4 THE OFFICER INCHARGE,
SUB JAIL, NANNILAM, THIRUVARUR DISTRICT.



5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE REGISTERED
ADVOCATE CLERK ASSOCIATION, THIRUVARUR.

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

CRL OP.1642/2022

Date :25/01/2022

CSK 27/01/2022