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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2022

CORAM:

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

Crl.O.P.No.1949 of 2022

Kaliyappan

...Petitioner

Vs.

State rep. by
The Inspector of Police,
Barur Police Station,
Krishnagiri District.
(Crime No. 467 of 2020)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail, in Crime No. 467 of 2020 pending investigation on the file of the Respondent police.

For Petitioner : M/s.E.Kannadasan

For Respondent : Mr.N.S.Suganthan
(Government Advocate Crl. Side)

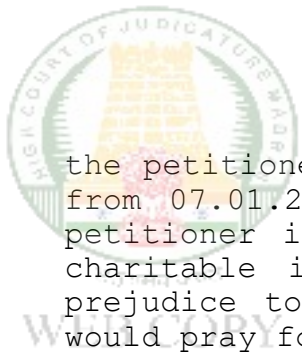
O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 07.01.2022 for the offences under Section 379 of IPC (Sand Theft), in Crime No. 467 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 09.07.2020, the petitioner was found illegally transporting quarter unit of river sand in 3 bags by using TVS STAR CITY two wheeler bearing Regn. No.TN30 S 8051. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and a false case has been foisted against him and that



the petitioner has been suffering incarceration for more than 20 days from 07.01.2022. However, on instructions he would submit that the petitioner is ready and willing to pay a substantial amount to any charitable institute as may be directed by this Court without prejudice to his rights and contentions before the trial Court and would pray for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would raise objection stating that the petitioner was found illegally transporting quarter unit of river sand in 3 bags by using a two wheeler but admits that the investigation is almost completed.

5. In order to curb 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.3,000/- (Rupees Three Thousand Only), to the credit of the Registered Advocate Clerks Association, Krishnagiri, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the said Association for the welfare of the Advocate 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 fact above facts and circumstances of the case and 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.3,000/- (Rupees Three Thousand Only) through demand draft to the Registered Advocate Clerks Association, Krishnagiri, 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 District Munsif cum Judicial Magistrate, Pochampalli, 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;

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(d) the petitioner shall report before the respondent police on every Tuesday 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.

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

-sd/-

31/01/2022

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, POCHAMPALLI,
KRISHNAGIRI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI DISTRICT. [FOR INFORMATION]



3 THE INSPECTOR OF POLICE,
BARUR POLICE STATION,
KRISHNAGIRI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE REGISTERED ADVOCATE
CLERKS ASSOCIATION, KRISHNAGIRI.

6 THE OFFICER INCHARGE,
DISTRICT JAIL, DHARMAPURI.

CC to E.KANNADASAN Advocate on payment of necessary charges

CRL OP.1949/2022

Date :31/01/2022

RW 01/02/2022