

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.8730 of 2023

Surendran

... Petitioner

Vs.

State, represented by
The Inspector of Police,
Ambur Town Police Station,
Tirupathur District.
(Crime No.113 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.113 of 2023 on the file
of the respondent Police.

For Petitioner : Mr.Silambu Selvan
for M/s.S.P.Arthi

For Respondent : Mr. C.E.Pratap
Government Advocate (Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.03.2023, for the offences punishable under Sections 379 and 430 of IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.113 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had transported 1/4 unit of sand illegally by using Bullock Cart. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. The petitioner had transported sand which was taken from his own land, whereas the respondent police has registered a false case against him. However, without prejudice to his contentions, the petitioner is prepared to deposit an amount of Rs.10,000/- towards any charitable organization or association and he has been in judicial custody from 12.03.2023. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the

respondent would submit that the quantity of sand involved in this case is 1/4 unit. He would further submit that the petitioner has got three previous cases against him. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard both sides and perused the materials available on record.

6. This Court in a batch of petitions in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier petitions expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier petitions. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 etc batch dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had

not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the role assigned to the person would have to be considered on case to case basis.

7. It is the case of the petitioner that he had transported sand which was taken from his own land, however in order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to **deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Missionaries of Charity, Mentally retarded Children, Chennai**, without prejudice to his rights and the contentions before the trial Court.

8. Merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Considering the facts and circumstances of the case and the

submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is directed to deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only) to the credit of "the Missionaries of Charity, Mentally retarded Children, Nirmala Shishu Bhavan, No.26/79, West Madha Church Road, Royapuram, Chennai – 600 013 (South Indian Bank Limited, George Town Branch, A/c No.0042053000009382, IFSC Code: SBIL0000042) as non refundable deposit** and on such deposit, 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, Ambur, Tirupathur District,,** 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 report before the

respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] 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]***;

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

21.04.2023

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To

1. The Judicial Magistrate,
Ambur, Tirupathur District.
2. The Inspector of Police,
Ambur Town Police Station,
Tirupathur District.
3. The Central Jail,
Vellore.
4. The Public Prosecutor,
High Court of Madras.

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A.D.JAGADISH CHANDIRA,J.,

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