

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Thirtieth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.18957 of 2018

VIJAYAKUMAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP. BY [RESPONDENT]
THE SUB-INSPECTOR OF POLICE,
MAGARAL POLICE STATION,
KANCHIPURAM DISTRICT.
CR. NO. 39 OF 2018.

For Petitioner : M/S.S.SURESH Advocate

For Respondent : M/S M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner seeks anticipatory bail in Crime No.39 of 2017 registered by the respondent police for the offence under Sections 379, 430 of IPC and Section 21(1) of Mines and Minerals Act r/w Section 3(1) of TNPPDL Act.

2. The case of the prosecution is that the petitioner along with other accused had illegally transported three units of sand, by using lorry.

3. The learned counsel for the petitioner would submit that the petitioner was earlier granted anticipatory bail by this Court by an order dated 01.03.2018 to the condition that the petitioner should deposit a sum of Rs.15,000/- to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence and also he should surrender before the learned Judicial Magistrate-I, Kanchipuram, within a period of 15 days or else the order shall stand automatically cancelled. He would submit that due to jaundice, the petitioner was unable to appear before the learned Judicial Magistrate-I, Kanchipuram, within a period of 15 days and that meanwhile, the period for filing a petition for extension of time was lapsed and thereby, the present anticipatory bail application has been filed.

4. The learned Additional Public Prosecutor appearing for the State would submit that the petitioner was granted anticipatory bail on 01.03.2018, but, he had not appeared before the concerned Court, within a period of 15 days as granted by this Court. He would submit that the petitioner may be granted anticipatory bail on imposing some stringent conditions.

5. Considering the facts and circumstances of the case and also considering the submission made by the learned Additional Public Prosecutor, I am inclined to grant anticipatory bail to the petitioner with stringent conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-I, Kanchipuram, on condition that the petitioner shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioner shall make a non-refundable deposit of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner.

[b] The final order in respect of the said deposit shall be passed by the trial Judge at conclusion of trial.

[c] the petitioner shall pay the cost of Rs.5,000/- (Rupees Five Thousand only) to the concerned Taluk Legal Services Authorities.

[d] if the petitioner fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

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

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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

[h] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second petitioner is 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
30/07/2018

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.I
KANCHIPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU, [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
MAGARAL POLICE STATION,
KANCHIPURAM DISTRICT.

5 THE CHAIRMAN DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
KANCHIPURAM

6 THE OFFICER INCHARGE
TALUK LEGAL SERVICES AUTHORITIES,
KANCHIPURAM

+ 1 CC to M/S.S.SURESH Advocate on payment of necessary charges
SR.NO. 14177

CRL OP.18957/2018

Date :30/07/2018

cm 02/08/2018