

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Ninth day of March Two Thousand Twenty

PRESENT

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

CRIMINAL ORIGINAL PETITION No.5410 of 2020

SIVAKUMAR

[PETITIONER / ACCUSED]

Vs

THE STATE

[RESPONDENT]

THE INSPECTOR OF POLICE,
KAMMAPURAM POLICE STATION,
CUDDALORE DISTRICT.
(CRIME NO.204/2019)

For Petitioner : M/S. K.BALAJI Advocate

For Respondent : MR. K.PRABAKAR, Additional Public Prosecutor.

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

ORDER : The Court Made the following order :-

- 1.The Petitioner herein, apprehending arrest at the hands of the Respondent Police, for having allegedly committed the offences punishable under Sections 379 and 430 of IPC, read with Section 21 (1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Cr.No.204 of 2020, has filed this Criminal Original Petition, under Section 438 of Cr.PC, seeking anticipatory bail.
- 2.The case of the Prosecution is that the Petitioner had illegally transported 100 kgs of river sand, without any valid licence and hence, he has been implicated as an accused in the case on hand.
- 3.This court heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondent and also perused the materials placed before this Court.
- 4.According to the Petitioner, the Petitioner is in no way connected with the alleged offences and he has been falsely implicated in the case on hand. The Petitioner would abide by any conditions to be imposed by this Court for enlarging the Petitioner on anticipatory bail.

5. On the other hand, the learned Additional Public Prosecutor, while vehemently opposing to grant anticipatory bail, would submit that the Petitioner had transported 100 kgs of river sand, without any valid licence and that the vehicle used for transporting the sand was also seized by the Respondent Police and hence, anticipatory bail cannot be granted. He would further submit that in a case where a person is caught with illegal sand in the mining area, he is to be directed to deposit appropriate conditional amount as non refundable deposit, to the credit of the Crime Number, among other conditions, however, in view of formation of District Mineral Foundation Trust in each District, the conditional amount may be directed to be deposited to the credit of the said Trust for rehabilitation in the illegal sand mining affected areas. He would further submit that there is no previous case, pending against the Petitioner.
6. In view of the rehabilitation measures undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017 and also in order to curb the illegal sand mining activities, this Court is of the opinion that the accused may be directed to deposit appropriate amount as a non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to the rights and contentions of the parties before the trial Court. However, it is made clear that merely depositing the said amount as non refundable would not amount to admission of guilt. It is open to the Trial Court to deal with the case independently, on merits and in accordance with law, without reference to the amount deposited at the stage of anticipatory bail.
7. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail in favour of the Petitioner, however, on stringent conditions. Accordingly, the Petitioner is hereby ordered to be released on anticipatory bail, in the event of his arrest or on his appearance before the Judicial Magistrate II, Virudhachalm, within 15 days from the date of receipt of a copy of this order and further on the Petitioner complying with the following conditions, without fail:-
- i. If the Petitioner fails to surrender before the Judicial Magistrate II, Virudhachalm, Vellore, within a period of 15 days, from the date of receipt of a copy of this order, this order shall stand automatically cancelled, without any further reference to this Court.
 - ii. 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 Judicial Magistrate II, Virudhachalm. The sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.

iii. The Petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) as non refundable deposit, to the credit of the concerned District Mineral Foundation Trust.

iv. The Petitioner shall report before the Respondent Police, daily at 10.30 a.m., until further orders.

v. The Petitioner shall not abscond either during the investigation or the trial. The Petitioner shall not tamper with evidence or witness, either during the investigation or the trial.

vi. On breach of any of the aforesaid conditions, the concerned 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 is released on bail, by the concerned Trial Court itself, as laid down in the decision of the Honourable Supreme Court reported in 2005 AIR SCW 5560 (P.K.Shaji Vs. State of Kerala).

If the Petitioner, thereafter, absconds, a fresh First Information Report shall be registered, under Section 229A of IPC.

-sd/-

09/03/2020

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, VIRUDHACHALAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KAMMAPURAM POLICE STATION,
CUDDALORE DISTRICT.

5 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
CUDDALORE.

+1 CC to M/S. K.BALAJI Advocate on payment of necessary charges
SR.NO.4604

CRL OP.5410/2020

Date :09/03/2020

TA-12/03/2020



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