

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eleventh day of March Two Thousand Twenty

PRESENT

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

CRIMINAL ORIGINAL PETITION No.5594 of 2020

M.KANNAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE SUB INSPECTOR OF POLICE,
B-3 KANCHI TALUK POLICE STATION,
KANCHEEPURAM DISTRICT
CRIME NO.739 OF 2019.

[RESPONDENT]

For Petitioner : M/S.R.SASIKUMAR 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 :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under sections 430, 379 of IPC, r/w Section 21(1) of Mines and Minerals Act and Section 3(1) of TNPPDL Act in Crime No.739 of 2019, on the file of the respondent police, seeks anticipatory bail.

2.It is seen that this Court had granted anticipatory bail to the petitioner on 15.11.2019 with certain conditions. One of the condition is that the petitioner shall deposit a sum of Rs.60,000/- (Rupees sixty Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust. Subsequently, the petitioner had filed modification petition to modify the condition imposed on the petitioner by an order dated 15.11.2019 in CrI.O.P.No.30794 of 2019 to deposit a sum of Rs.60,000/- (Rupees Sixty Thousand Only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust. On 07.02.2020, this Court modified the said condition to deposit a sum of Rs.10,000/- as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, because a sum of Rs.1,20,000/- have already been paid by the other accused and also a petition for extension of time was filed on the very same day and this Court ordered the petition and extended the time till 21.02.2020 for executing the sureties. Due to the financial condition the petitioner, he did not comply the order within the specified period. Therefore the present petition is filed.

3.The case of the prosecution is that, the petitioner is alleged to have transported 4 units of sand illegally.

4. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Hence, he prays to grant anticipatory bail to the petitioner.

5.The learned Government Advocate appearing for the respondent police submitted that the quantity of sand involved is 4 units. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

6.In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

7.Merely, because the petitioner has deposited 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.

8.Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and on such deposit 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 on which the order copy made ready, before the learned Judicial Magistrate No.II, 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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 deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and also to pay a sum of Rs.2,000/- (Rupees Two Thousand only) before the Legal

Service Authority

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of one week and thereafter as and when required for interrogation.

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

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

[f] 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]**.

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

-sd/-
11/03/2020

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, KANCHIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
B-3 KANCHI TALUK POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE SECRETARY,
TAMILNADU LEGAL SERVICES AUTHORITY, HIGH
COURT, MADRAS.

6 THE DISTRICT MINERAL FOUNDATION TRUST,
CHENGALPET.

+1CC to M/S.R.SASIKUMAR Advocate on payment of necessary
charges SR NO.4889

CRL OP.5594/2020

Date :11/03/2020

MK:21/05/2020