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.5396 of 2020

BALRAJ [PETITIONER / ACCUSED]

Vs

STATE REP.BY [RESPONDENT]
INSPECTOR OF POLICE,
KOOTHANALLUR POLICE STATION,
THIRUVARUR DISTRICT.
CR.NO.99 OF 2020.

For Petitioner : M/S.SWAMI SUBRAMANIAN Advocate

For Respondent : MR.K.PRABAKAR ADDL. 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 of IPC read with Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Cr.No.99 of 2020, has filed this Criminal Original Petition, under Section 438 of Cr.PC, seeking anticipatory bail.
2. The facts of the case of the Prosecution arisen on the basis of the complaint given by the defacto complainant, Tahsildar are that while she was on duty, on 28.02.2020 at about 01.30 p.m. she found the Petitioner illegally digging sand from the land belonging to the Temple, by using JCB Vehicle and hence, the Petitioner 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 learned counsel for the Petitioner, even as per the defacto complainant, only an attempt was made by the Petitioner. 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 since the Petitioner had attempted to commit theft of the river sand illegally digging by using JCB, which had also been seized and hence, anticipatory bail cannot be granted.
6. Considering the facts and circumstances of the case and the

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

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, Mannargudi, Thiruvarur District, 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, Mannargudi, Thiruvarur District, 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.15,000/- (Rupees Fifteen Thousand Only), with two sureties each for a like sum, to the satisfaction of the Judicial Magistrate II, Mannargudi, Thiruvarur District. 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 report before the Respondent Police, daily at 10.30 a.m., until further orders.

iv. 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.

v. 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)**.

vi. 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.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, MANNARGUDI, THIRUVARUR DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KOOTHANALLUR POLICE STATION,
THIRUVARUR DISTRICT.

5 THE OFFICER IN CHARGE
DISTRICT MINERAL FOUNDATION TRUST
THIRUVARUR

+1 CC to M/S.SWAMI SUBRAMANIAN Advocate on payment of necessary charges SR.NO. 4767

CRL OP.5396/2020

Date :09/03/2020

RD 16/03/2020

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/