

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fourth day of March Two Thousand Twenty
PRESENT

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

CRIMINAL ORIGINAL PETITION No.6601 of 2020

1 SURIYA
2 MOORTHY

[PETITIONERS / ACCUSED]

Vs

STATE BY

[RESPONDENT]

INSPECTOR OF POLICE,
SRIPERUMBADUR POLICE STATION,
KANCHEEPURAM DISTRICT.
(CRIME NO.108/2020)

For Petitioner : M/S.S.GOWSHIK SUNDAR Advocate

For Respondent : M/S. K.PRABAKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 and 430 IPC, in Crime No.108 of 2020, seek anticipatory bail.

2. The case of the prosecution is that the petitioners along with other persons transported sand illegally by using 9 Lorries, 3 JCB and 3 two wheeler without any valid licence. Hence, the complaint was registered.

3.The learned counsel appearing for the petitioners would submit that the earlier application for anticipatory bail was filed along with one Vijayakanth who was also arrayed as an accused in this case. He would submit that against the said Vijayakanth, there are cases pending and since it was represented by the respondents that there are previous cases against the petitioners, this court by an order dated 05.03.2020, dismissed the petitions. Hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that on verification it was found that cases are pending only against the said Vijayakanth and no case is pending as against the petitioners. He would submit that the petitioners were found to transport two units of sand. He further submitted that there are no previous case pending as against the petitioners.

5. 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 petitioners are directed to 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, without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are directed to 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 and on such deposit, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Sriperumbudur on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with one surety 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 petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity.

[b] the petitioners 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.

[c] the petitioners shall report before the respondent police daily at 10.30 a.m from 15.04.2020 onwards.

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

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-
24/03/2020

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,
SRIPERUMBUDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SRIPERUMBADUR POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE OFFICER INCHARGE
DISTRICT MINERAL FOUNDATION TRUST,
KANCHEEPURAM.

+1 CC to M/S.S.GOWSHIK SUNDAR Advocate on payment of necessary charges SR.No.5672

WEB COPY

CRL OP.6601/2020

Date :24/03/2020

cs 12/05/2020