

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventeenth day of March Two Thousand Twenty

PRESENT

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

CRIMINAL ORIGINAL PETITION No.6096 of 2020

1 KRISHNAMOORTHY

[PETITIONERS / ACCUSED]

2 VEERAVEL

Vs

STATE REP. BY

[RESPONDENT]

INSPECTOR OF POLICE,

S.H.O. NADUVEERAPATTU POLICE STATION,

CUDDALORE DISTRICT.

(CRIME NO.27 OF 2020)

For Petitioner : M/S. S.EZHUMALAI 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 petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 & 430 of IPC r/w Section 21(1) of Mines and Minerals Act 1957, in Crime No.27 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners have transported 1/4 unit of river sand without any valid license. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they did not commit any offence as alleged by the prosecution and they have been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the quantity of sand involved is 1/4 unit and there are no previous cases 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) **(each)** 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.

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 petitioner with certain conditions.

8. Accordingly, the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) **(each)** 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 is made ready, before the learned Judicial Magistrate No.I, Cuddalore District, 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 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) **(each)** 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 for a period of one week and thereafter, as and when required for interrogation.

[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/-

17/03/2020

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.I,
CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
S.H.O. NADUVEERAPATTU POLICE STATION,
CUDDALORE DISTRICT.

5 THE DISTRICT MINERAL FOUNDATION TRUST,
CUDDALORE.

+2CC to M/S. S.EZHUMALAI Advocate on payment of necessary charges SR NO.5236

CRL OP.6096/2020

Date :17/03/2020

MK:16/04/2020