

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice T.RAJA

CRIMINAL ORIGINAL PETITION No.6542 of 2020

1 KUMAR
S/O.ARUMUGAM
2 SELVAM
3 VISWANATHAN
4 KESAVAN
5 MARIMUTHU
6 DILLIBABU
7 KUMAR
S/O.KRISHNAN

[PETITIONERS / ACCUSED]

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
MAGARAL POLICE STATION,
KANCHIPURAM DISTRICT.
CRIME NO.15 OF 2020.

[RESPONDENT]

For Petitioner : M/S. G.K.SEKAR Advocate

For Respondent : MR. S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

Petitioners, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 430, 379 IPC, r/w.3(1) of TNPPDL Act and Section 21(1) of MMDR Act, in Crime No.15 of 2020, on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners are alleged to have transported 2 1/2 units of river sand illegally in the rier bed of Palar in bullock carts. Hence, the complaint.

3. Learned counsel appearing for the petitioners would submit that the petitioners are agriculturists and they have taken the sand for their own use and they have been falsely implicated in this case. He would further submits that there is no previous cases against him. Hence, he prays for grant of anticipatory bail to the petitioners.

4.Learned Government Advocate (Crl. Side) appearing for the respondent submitted that the quantity of river sand involved is 2 1/2 units. He would further submit that there are no previous cases pending 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.35,000/- (Rupees thirty five Thousand only) as non refundable deposit to the credit of the Madras Seva Sadan Home for Destitute Children, Shenstone Park, 7, Harrington Road, Chetpet, Chennai-31, 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 his 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. Accordingly, the petitioners are directed to deposit a sum of Rs.35,000/- (Rupees thirty five thousand only) as non refundable deposit to the credit of the Madras Seva Sadan Home for Destitute Children, Shenstone Park, 7, Harrington Road, Chetpet, Chennai-31, 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 made ready, before the Judicial Magistrate-II, Kanchipuram on condition that each of the petitioners 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 Aadhar card or Bank pass Book to ensure their identity.

[b] 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.

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

[d] the petitioners shall not abscond either during investigation or trial.

[e] 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]**.

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

-sd/-
20/03/2020

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 INSPECTOR OF POLICE, सत्यमेव जयते
MAGARAL POLICE STATION,
KANCHIPURAM DISTRICT.

5 THE MADRAS SEVA SADAN HOME FOR DESTITUTE CHILDREN,
SHENSTONE PARK, 7, HARRINGTON ROAD,
CHETPET, CHENNAI-31

+1CC to M/S. G.K.SEKAR Advocate on payment of necessary charges SR NO.5514

CRL OP.6542/2020

Date :20/03/2020

MK:01/07/2020