

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.6185 of 2020

A.VENKATESHAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY

[RESPONDENT]

SUB-INSPECTOR OF POLICE,
KALAMBUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.
CRIME NO.133/2020.

For Petitioner : M/S.K.VENKAT 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 offence punishable under Sections 379 & 430 of IPC, r/w 21(5) of Mines and Minerals Act 1860, in Crime No.133 of 2020 on the file of the respondent police, seeks anticipatory bail.

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

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioner.

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 petitioner.

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 petitioner is 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 his rights and contentions before the trial Court.

6. Merely, because the petitioner has 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 petitioner is 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 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 District Munsif cum Judicial Magistrate, Kalasapakkam, 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 Aadhaar card or Bank pass Book to ensure their identity.

[b] the petitioner 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 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 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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, KALASAPAKKAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
KALAMBUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE DISTRICT MINERAL FOUNDATION TRUST,
THIRUVANNAMALAI.

+1CC to M/S.K.VENKAT Advocate on payment of necessary
charges SR NO.5231

CRL OP.6185/2020

Date :17/03/2020

MK:16/04/2020