

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.7043 of 2020

Thirumalai

... Petitioner

Vs.

State By

...Respondent

The Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai District.
Crime No.103 of 2020

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of arrest in Crime No.103 of 2020 on the file of the Inspector of Police, Kalasapakkam Police Station, Thiruvannamalai District.

For Petitioner : Mr.S.Silambuselvan

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under **Sections 379, 430 of IPC read with Section 21(5) of M & M Act and Section 3 of TNPPDL Act, in Crime No.103 of 2020** on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner transported $\frac{1}{4}$ unit of sand by using bullock cart without any valid licence. Hence the complaint.

3. According to the petitioner, the petitioner is in no way connected with the alleged offences and he has been falsely implicated in the case on hand and he would submit that there is no previous case against the petitioner. On instruction, he would further submit that the petitioner is prepared to deposit an amount of Rs.5,000/- as non refundable deposit to **the concerned**

District/Taluk Legal Services Authority and prayed for grant of Anticipatory Bail.

4.The learned Additional Public Prosecutor submitted that the quantity of sand involved is $\frac{1}{4}$ unit. Hence, he opposed for the grant of anticipatory bail to the petitioner.

5. In view of the fact that there is no previous case against the petitioner 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 **concerned District / Taluk Legal Services Authority** and the receipt of such payment shall be produced before the concerned Magistrate at the time of executing bail bond without prejudice to his rights and contentions before the trial Court.

6.Merely, because the petitioner deposits 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 petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a sum of **Rs.5,000/- (Rupees Five Thousand Only)**, as non refundable deposit to the **concerned District / Taluk Legal Services Authority** 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 made ready, before the **learned District and Sessions Judge (Special Court of Mines & Minerals), Thiruvannamalai**, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees ten thousand only)** 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 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 Aadhar 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 concerned District / Taluk Legal Services Authority.

[c] the petitioner shall report before the respondent police 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 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.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
01/06/2020

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 AND SESSIONS JUDGE
(SPECIAL COURT OF MINES & MINERALS),
THIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KALASAPAKKAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

4 THE SECRETARY,
DISTRICT/TALUK LEGAL SERVICES AUTHORITY
THIRUVANNAMALAI.

CC to M/S. S.SILAMBUSELVAN Advocate on payment of necessary charges

CRL OP.7043/2020

Date :01/06/2020