

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Cr1. O.P.No.7088 of 2020

1.P.Sampathkumar (25/M) (A1),
S/o.Palani,
Kuppandampalayam,
Palankarai Post,
Avinashi,
Tiruppur.

2.P.Karthikeyan (28/M) (A2),
S/o.Ponnusamy,
Ellakattu Thottam,
Muyiandampalayam,
Avinashi,
Tiruppur.

.. Petitioners/Accused

Vs.

The Inspector of Police,
Avinashi Police Station,
Tirupur District.

.. Respondent/Complainant

(Crime No.173 of 2020)

Prayer: Criminal Original Petition filed for anticipatory bail under Section 438 of Criminal Procedure Code.

For Petitioner : Mr.J.Franklin
For Respondent : Mr.M.Jothikumar
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for alleged offence punishable under Section 379 of I.P.C. in Crime No.173 of 2020, seek anticipatory bail.

2.The case of the prosecution is that the Revenue Tahsildar, Avinashi on 09.02.2020 intercepted a tipper lorry bearing Registration No. TN 36 S 3000 and found that gravel sand is illegally transported. The tipper lorry with sand was seized. The Revenue Tahsildar, Avinashi, requested the respondent Police to investigate and prosecute the persons who illegally transported gravel sand. When the accused persons filed petition for return of property, on his confession, F.I.R. was registered under Section 379 of I.P.C.

3.The learned counsel appearing for the petitioners submitted that even as per the prosecution case, no river sand was transported, only gravel sand is being transported by the petitioners. The petitioners are no way connected with the alleged offence, they are innocent and their names are falsely implicated in the F.I.R. The petitioners undertakes to attend all the hearings before the Trial Court, without any default. The learned counsel appearing for the petitioners, on instructions, further submitted that in order to show their bonafide, the petitioners are willing and ready to deposit a sum of Rs.30,000/- to the Chief Minister's Public Relief Fund and prayed for granting anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that petitioner and other accused transported 1 ½ unit of gravel sand without any permission or license. On complaint given by Revenue Tahsildar, Avinashi, case has been registered and investigation is pending and prayed for dismissal of the petition.

5.Heard the learned counsel appearing for the petitioners as well as the

learned Additional Public Prosecutor appearing for the respondent Police and perused the materials available on record.

6.Considering the nature of alleged offence, date of occurrence and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance within 15 days from the date of receipt of a copy of this order before the Court of the Judicial Magistrate, Avinashi, on condition that each of the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 Judicial Magistrate, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(i) The petitioners and the sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their

identities.

(ii) The 1st petitioner P.Sampathkumar, driver of the tipper lorry shall deposits a sum of Rs.10,000/- (Rupees Ten Thousand only) and the 2nd petitioner P.Karthikeyan, owner of the tipper lorry shall deposits a sum of Rs.20,000/- (Rupees Twenty Thousand Only) by Demand Draft in favour of the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund (CMPRF), Finance Department, Government of Tamil Nadu, Secretariat, Chennai 600 009 or by Electronic Clearing System (ECS) to the Savings Bank Account No. 11720 10000 00070 of CMPRF to the Indian Overseas Bank, Secretariat Branch, Chennai 600 009 bearing IFSC Code IOBA0001172 and CMPRF PAN – AAAGC0038F, towards the fund collected for COVID-19, within a period of one week from the date of receipt of a copy of this order.

(iii) The petitioners shall report before the respondent Police once in a week on every Monday at 10.30 a.m, until further orders.

(iv) The petitioners shall not abscond either during investigation or

trial. The petitioners shall not tamper with evidence or witness either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the concerned 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, reported in **2005 AIR SCW 5560 (P.K. Shaji vs. State of Kerala)** and

(vi) If the petitioners thereafter abscond, a fresh First Information Report shall be registered, under Section 229A of I.P.C.

7. Accordingly, this Criminal Original Petition is allowed.

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Index : Yes / No

Internet : Yes / No

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26.05.2020

V.M.VELUMANI, J.,

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To

1.The Inspector of Police,
Avinashi Police Station,
Tirupur District.

2.The Public Prosecutor,
High Court,
Madras.



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