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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2020

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.7128 of 2020

Kuralarasan

... Petitioner

Vs

State Represented by its
The Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.
Crime No.48 of 2020.

... Respondent

Prayer:- Criminal Original Petition filed under Section 438 Cr.P.C., to grant Anticipatory Bail to the petitioner in the event of his arrest in Crime No.48 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.J.Jawahar

For Respondent : Mr.K.Prabakar
Addl. Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379, 430 of IPC read with Section 21(1) of Mines & Minerals Act in Crime No.48 of 2020 on the file of the respondent police, seeks anticipatory bail.

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

3.The learned counsel appearing for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. On instruction, he would further submit that the petitioner is prepared to deposit some considerable amount to any charitable organization without prejudice to his contention and prayed for grant of Anticipatory Bail.



4.The learned Additional Public Prosecutor submitted that the quantity of sand involved is 1/2 unit and also the petitioner has one previous case against him. Hence, he opposed for the grant of anticipatory bail to the petitioner.

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5. It is seen that there is one previous case against the petitioner. Generally this Court does not grant anticipatory bail where there is previous case. However, taking into account the present pandemic situation, this Court is inclined to grant anticipatory bail to the petitioner and the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand Only) as non refundable deposit to the Cancer Institute WIA No.38, Childrens Park Access Road, IIT Post, Guindy National Park, Guindy, Chennai, Tamil Nadu-600 036, PH. No.044 2220 9150 and that 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. Accordingly, the petitioner is directed to deposit a sum of **Rs.20,000/- (Rupees Twenty Thousand Only)** as non refundable deposit by way of NEFT/RTGS to the Adyar, **Cancer Institute WIA No.38, Childrens Park Access Road, IIT Post, Guindy National Park, Guindy, Chennai, Tamil Nadu-600 036, PH. No.044 2220 9150 bearing A/c No.149710011005477, Andhra Bank, Madhya Kailash Branch, Chennai,** and on such deposit and production of proof, 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 Judicial Magistrate-II, Nagapattinam,** 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 surety 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 report before the respondent police as and when required for interrogation.

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

[d] the petitioner 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 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]**.

[f] 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/-
04/06/2020

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 JUDICIAL MAGISTRATE,
NO.II, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THITTACHERRY POLICE STATION,
NAGAPATTINAM DISTRICT.

5 THE NEFT/RTGS TO THE ADYAR,
CANCER INSTITUTE WIA NO.38, CHILDRENS PARK
ACCESS ROAD, IIT POST, GUINDY NATIONAL PARK,
GUINDY, CHENNAI, TAMIL NADU-600 036,
PH. NO.044 2220 9150 BEARING A/C NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH, CHENNAI,

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

CRL OP.7128/2020

Date :04/06/2020