

IN THE HIGH COURT OF JUDICATURE AT

MADRAS

DATED : 02.06.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.7119 of 2020

J.Suresh

S/o.M.Jayakumar,

Nerkunampattu Village,

Cheyur Taluk, Kancheepuram District.

...Petitioner

Vs.

The State by

Sub-Inspector of Police,

G-10, Anaicut Police Station,

Kancheepuram District.

Crime No.60/2020.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. to grant Anticipatory bail to the petitioner in the event of arrest in Crime No.60 of 2020 on the file of the respondent police.

For Petitioner : Mr.T.K.S.Gandhi

For Respondent : Mr.K.Prabakar

Additional 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 r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, in Crime No.60 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 river sand by using bullock cart 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 an amount of Rs.5,000/- 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** and prayed for grant of Anticipatory Bail.

4.The learned Additional Public Prosecutor submitted that the

quantity of sand involved is 1/2 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 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 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 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 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, Madurantakam** on condition that the petitioner shall execute a separate 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 deposit a sum of Rs.5,000/- (Rupees five 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.

[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 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.

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

Index : Yes/No

Internet : Yes/No

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02.06.2020

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A.D.JAGADISH CHANDIRA,J.

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To

1. The learned Judicial Magistrate, Madurantakam.

2. The Sub-Inspector of Police,
G-10, Anaicut Police Station,
Kancheepuram District.

Crime No.60/2020.

3. The Public Prosecutor,
High Court, Madras.



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