

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2020

CORAM

THE HONOURABLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.7114 of 2020

Arun

... Petitioner

Vs.

The State Rep. by
Inspector of Police
Thiruvankadu Police Station,
Nagapattinam District.

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail pending investigation in Crime No.47 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Sundarapandian

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

ORDER

The Petitioner who apprehends arrest at the hands of the Respondent Police, for having allegedly committed the offences punishable under Sections 379 and 430 IPC, read with Section 21(1) of the Mines and Minerals

(Development and Registration) Act 1957, in Crime No.47 of 2020, has filed this Criminal Original Petition, under Section 438 of Cr.PC, seeking anticipatory bail.

2. The case of the Prosecution is that the Petitioner had transported one unit of Savudu sand without any valid licence and hence, the complaint.

3. This court heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondent and also perused the materials placed before this Court.

4. 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. He would further submit that without prejudice to his defence, the petitioner is prepared to deposit a considerable amount to any charitable organization and prayed for grant of Anticipatory Bail.

5. On the other hand, the learned Additional Public Prosecutor, while opposing to grant anticipatory bail, would submit that the petitioner is the

owner of the tractor and the quantity of sand involved is one unit savudu sand. He further submitted that there is one previous case against the petitioner similar in nature.

6. 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.25,000/- (Rupees Twenty Five Thousand Only)** as non refundable deposit by way of NEFT/RTGG to the credit of the **Adyar Cancer Institute WIA No.38, Childrens Park Access Road, IIT Post, Guindy National Park, Guindy, Chennai, Tamil Nadu-600 036** 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.

7. 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.

8.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.25,000/- (Rupees twenty five thousand only) as non refundable deposit by way of NEFT/RTGG to the **Adyar Cancer Institute WIA No.38, Childrens Park Access Road, IIT Post, Guindy National Park, Guindy, Chennai, Tamil Nadu-600 036, as non refundable deposit bearing A/C.No.149710011005477, Madhiyakailash Branch, Andhra pradesh** and on such deposit and on production of poof, 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, Sirkazhi**, 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 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.

05.06.2020

Internet : Yes/No

kmm

To.

1. The Judicial Magistrate,

Sirkazhi

2. The Inspector of Police

Thiruvankadu Police Station,

Nagapattinam District.

3. The Public Prosecutor,

High Court, Madras.

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