

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl. O.P.No.7647 of 2020

1.M.Dhamodaran,M/40
S/o.Mahalingam,
Angalamman Koil Street,
Nadukuppam Post, Panruti,
Cuddalore District – 607 103.

2.M.A.Jayachandran, M/45
S/o.Arichandran,
137/2, Rajivgandhi Street,
Nadukuppam Post, Melmettikuppam,
Cuddalore District – 607 103.

3.A.Silambarasan, M/51
S/o.Arikrishnan,
No.256, North Street, Melrippu,
Kiliruppu, Panruti,
Cuddalore District – 607 103.

4.M.Anbuselvan, M/29

S/o.Mahalingam,
No.259, North Street, Melrippu,
Kiliruppu, Panruti,
Cuddalore District – 607 103.

5.K.Muthusamy, M/53

S/o.Kaliyamoorthi.
No.316, North Street, Melrippu,
Kiliruppu, Panruti,
Cuddalore District – 607 103.

1,2,3,4 & 6

.. Petitioners/Accused –

Vs.

State Represented by
The Station House Officer,
Kadampuliyur Police Station,
Cuddalore District.
Respondent/Complainant
(Crime No.167 of 2020)

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

For Petitioners

: Mr.K.Balasubramaniam

For Respondent

: Mr.T.Shunmuga Rajeswaran

Government Advocate (Crl. Side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for alleged offences punishable under Sections 430, 379 IPC r/w 21(1) Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.167 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 04.04.2020 at 01.00 A.M., the defacto complainant along with his Police party while checking the illegal transportation of river sand, it was found that the petitioners and one Sekar were transporting the river sand illegally in a pickup vehicle bearing Registration No.TN 65 H 2615. The petitioners 2 and 3 were doing escort duty to see whether any Police party is checking and on seeing the defacto complainant and others, they left the two wheeler & pickup vehicle and ran away from the place of occurrence. On complaint, a case has been registered against the petitioners and the said Sekar under Sections 430, 379 IPC r/w 21(1) Mines and Minerals (Development & Regulation) Act, 1957.

3.The learned counsel appearing for the petitioners after elaborate arguments submitted that he will send a mail to withdraw the petitions filed by the petitioners 1 & 2 and submitted that the petitioners 3 to 5 are innocent and they have not committed any offence as alleged by the prosecution. The learned counsel appearing for the petitioners further submitted that the petitioners were transporting clay sand for making bricks and while the petitioners were transporting clay sand for making bricks, the respondent Police seized the vehicle alleging that the petitioners were illegally transporting river sand and foisted a false case against the petitioners. The petitioners 3 to 5 are innocent and they have not committed any offence as alleged by the prosecution. The petitioners are permanent residents, they will not abscond and are ready to abide by any conditions imposed by this Court and prayed for granting anticipatory bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the petitioners have committed serious offence of transporting river sand illegally, affecting the water source, sold it in the open market and caused loss to the Government. He further submitted

that investigation is pending and prayed for dismissal of the petition.

5. Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate (Crl. Side) appearing for the respondent Police and perused the materials available on record.

6. Considering the submission made by the learned counsel appearing for the petitioners and the mail sent by him, the learned counsel appearing for the petitioners is permitted to withdraw this Criminal Original Petition in respect of the petitioners 1 & 2 and accordingly, this Criminal Original Petition is dismissed as withdrawn in respect of the petitioners 1 & 2.

7. With regard to petitioners 3 to 5, considering the facts of the case and nature of offences, this Court is inclined to grant anticipatory bail to the petitioners 3 to 5. Accordingly, the petitioners 3 to 5 are ordered to be enlarged on bail in the event of their arrest on their appearance, within 15 days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Panruti, on the following conditions:

(i) Petitioners 3 to 5 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 arrests them or the aforementioned Judicial Magistrate;

(ii) Each of the petitioners 3 to 5 deposits a sum of Rs.5,000/- (Rupees Five Thousand only) before the District Mineral Foundation, Cuddalore District, within one week from the date of receipt of a copy of this order and

(iii) Petitioners 3 to 5 appear before the respondent Police once in a week on every Monday.

8. Accordingly, the Criminal Original Petition is allowed.

18.05.2020

krk

Index : Yes / No

Internet : Yes / No

WEB COPY

To

1.The Station House Officer,
Kadampuliyur Police Station,
Cuddalore District.

2.The Public Prosecutor,
High Court,
Madras.



WEB COPY

V.M.VELUMANI, J.,

krk



Crl. O.P.No.7647 of 2020

WEB COPY

18.05.2020