

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CrI. O.P. No. 7923 of 2020

Pusparaj,
Son of Thavamani,
Aged about 23 years,
No.91, Maariamman Kovil Street,
Karamanikuppam,
Gunamangalam Post,
Cuddalore Taluk,
Cuddalore – 607109.

.. Petitioner / Accused No.2

Vs.

State Represented by
Inspector of Police,
Nellikuppam Police Station,
Cuddalore District – 607 105.

.. Respondent / Complainant

[Crime No. 417 of 2020]

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

For Petitioner : Mr.U.Pressanna

For Respondent : Mr.M.Jothikumar

Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for alleged offence punishable under Sections 379 and 430 of Indian Penal Code r/w Section 21(1) of Mines and Minerals (Development & Regulations) Act, 1957 in Crime No.417 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that, on 13.05.2020, when the defacto complainant and his Police party were checking the vehicles for theft of river sand, first accused came in Hero Honda Splendor motorcycle bearing Registration No.TN 31 CA 4710 from Thenpennai river. While they stopped the motorcycle on suspicious and was questioning, the petitioner/A2 came in a Mahendra Bolero Pick-up vehicle. On seeing the Police party, the petitioner stopped the vehicle and ran away from the place of occurrence. On search, it was found that half unit of river sand was loaded in the Bolero vehicle. The defacto complainant and his Police party seized the Bolero vehicle with river sand and arrested A1 and on complaint, case has been registered under Sections 379 and 430 of Indian Penal Code r/w Section 21(1) of Mines and Minerals (Development & Regulations) Act, 1957.

3.The learned counsel appearing for the petitioner submitted that petitioner is not involved in the alleged offence. The occurrence alleged to have been happened on 13.05.2020 during COVID-19 lock down period and there was no movement of vehicles and when there was no construction work is going on. The petitioner is law abiding citizen and will not tamper with the investigation. The learned counsel appearing for the petitioner submitted that A1 was arrested and enlarged on bail by order dated 18.05.2020 in C.M.P.No.3034 of 2020. The learned counsel appearing for the petitioner, on instructions, further submitted that in order to show his bonafide, the petitioner is ready and willing to deposit a sum of Rs.10,000/- 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 the petitioner and A1 were transporting half unit of river sand illegally, investigation is pending and hence, opposed for granting anticipatory bail to the petitioner.

5.Heard the learned counsel appearing for the petitioner 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, A1 is enlarged on bail and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of his arrest or on his appearance within 15 days from the date of receipt of a copy of this order before the Court of the Judicial Magistrate No.I, Cuddalore, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner 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 petitioner shall deposits a sum of Rs.10,000/- (Rupees Ten 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 petitioner shall report before the respondent Police once in a week on every Monday at 10.30 a.m, until further orders.

(iv) The petitioner shall not abscond either during investigation or trial. The petitioner 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 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, reported in **2005 AIR SCW 5560 (P.K. Shaji vs. State of Kerala)** and

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

7. Accordingly, this Criminal Original Petition is allowed.

27.05.2020

Index : Yes / No
krk/gsa/kj

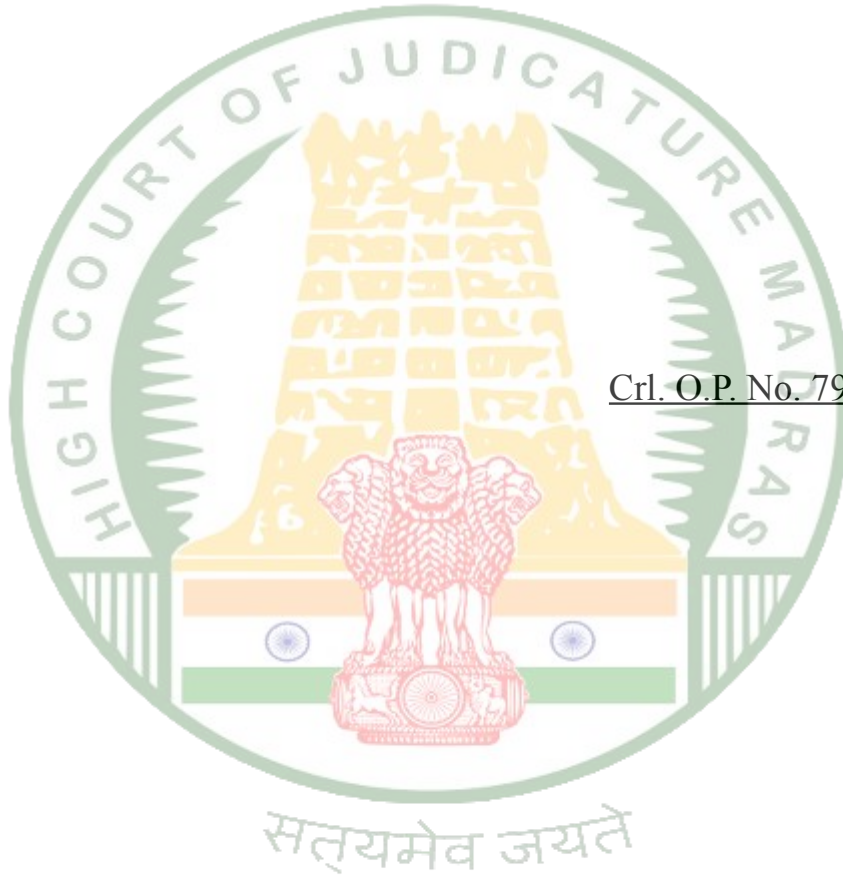
To

1.The Inspector of Police,
Nellikuppam Police Station,
Cuddalore District – 607 105.

2.The Public Prosecutor,
High Court, Madras.

V.M.VELUMANI, J.,

krk/gsa/kj



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