

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Cr1. O.P.No.7949 of 2020

1.Chellamuthukumar,
S/o.Mohandoss,
No.177, Main Road, Kidamangalam,
Ervadi, Nagapattinam – 609 601. .. Petitioner/Accused 1

2.Madhavan,
S/o.Parasuraman,
No.140, Main Road, Kidamangalam,
Ervadi, Nagapattinam – 609 601. .. Petitioner/Accused 2

State represented by Inspector of Police,
Thittacherry Police Station,
Nagapattinam District. .. Respondent/Complainant

(Crime No.361 of 2020)

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

For Petitioners : Mr.Hasan Mohamed Jinnah
For Respondent : Mr.M.Jothikumar
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for alleged offence punishable under Sections 379 & 430 of I.P.C. and 21(1) of Mines & Minerals (Development and Regulation) Act in Crime No.361 of 2020, seek anticipatory bail.

2.The case of the prosecution is that the petitioners on 08.05.2020 have transported river sand in Tata Ace vehicle belonging to the 2nd petitioner illegally and on complaint, case has been registered under Sections 379 & 430 of I.P.C. and 21(1) of Mines & Minerals (Development and Regulation) Act.

3.The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution. The

petitioners are innocent and their names are falsely implicated in the present case with a view to harass the petitioners. The learned counsel appearing for the petitioners, on instructions, further submitted that in order to show their bonafide, the petitioners are willing and ready to deposit a sum of Rs.30,000/- 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 petitioners were transporting one unit of river sand illegally, investigation is pending and hence, opposed for granting anticipatory bail to the petitioners.

5.Heard the learned counsel appearing for the petitioners 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, date of occurrence and the submissions of the learned counsel on either side, this Court is inclined to

grant anticipatory bail to the petitioners, with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance within 15 days from the date of receipt of a copy of this order before the Court of the Judicial Magistrate No.II, Nagapattinam, Nagapattinam District, on condition that each of the petitioners shall 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 intends to arrest or to the satisfaction of the concerned Judicial Magistrate, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(i) The petitioners 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 1st petitioner Chellamuthukumar, driver of the Tata Ace shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) and the 2nd petitioner Madhavan, owner of the Tata Ace shall deposit a sum of Rs.20,000/- (Rupees Twenty 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 petitioners shall report before the respondent Police once in a week on every Monday at 10.30 a.m, until further orders.

(iv) The petitioners shall not abscond either during investigation or trial. The petitioners shall not tamper with evidence or witness either during investigation or trial.

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(v) On breach of any of the aforesaid conditions, the concerned Trial Court is entitled to take appropriate action against the petitioners in

accordance with law, as if the conditions have been imposed and the petitioners 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 petitioners thereafter abscond, a fresh First Information Report shall be registered, under Section 229A of I.P.C.

7. Accordingly, this Criminal Original Petition is allowed.

28.05.2020

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Index : Yes / No

Internet : Yes / No

To

1.The Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.

2.The Public Prosecutor,
High Court,
Madras.

V.M.VELUMANI, J.,

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