

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl. O.P. No. 7978 of 2020

Vijayakumar,
S/o. Thangavel,
No.596, Main Road,
Thirusakthimutram, Manjanavadi Village,
Koothanallur Taluk,
Thiruvarur District. .. Petitioner / Accused No.1

State Represented by
Inspector of Police,
Koothanallur Police Station,
Thiruvarur District. .. Respondent / Complainant

[Crime No.334 of 2020]

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

For Petitioner : Mr. M.P. Yuvaraj
for M/s. Swamisubramanian
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 Section 379 of I.P.C. and Section 21(4) of Mines and Minerals (Development & Regulations) Act, 1957 in Crime No. 334 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that, on secret information that the river sand is being transported illegally, when the de-facto complainant and other Police party were on patrolling duty, on 11.04.2020 at about 01.00 p.m., they found that the petitioner and one Murugavel were loading alluvial sand in a Tractor bearing Registration No. TN 50 AV 8467, using JCB bearing Registration No. TN 20 AH 1310 in the backyard of one Raja. On seeing the de-facto complainant and other Police party, they left the vehicles and ran away from the place of occurrence. On search, it was found that one unit of river sand was being transported without any permission or license. The vehicles with sand were seized. On complaint, a case has been registered under Section 379 of I.P.C. and Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957.

3.The learned counsel appearing for the petitioner submitted that with an ulterior motive to create bad antecedent, the respondent Police has implicated the petitioner falsely in the case. The petitioner will co-operate with the investigation and will not tamper the witness and hamper the investigation. 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.20,000/- 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 one unit of river sand was transported without any permission or license in Tractor. The 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 offence alleged against the petitioner 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.II, Mannargudi, Thiruvarur District, 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 No.II, Mannargudi, Thiruvarur District, 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 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 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.

28.05.2020

Index : Yes / No
gsa

To

1.The Inspector of Police,
Koothanallur Police Station,
Thiruvarur District.

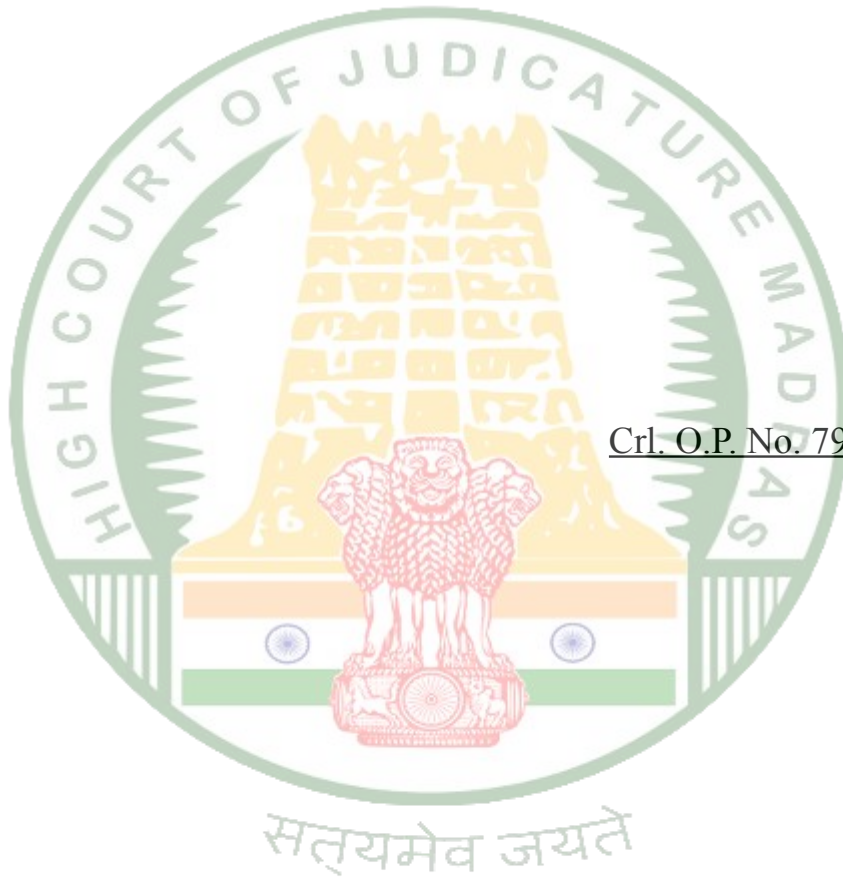
2.The Public Prosecutor,
High Court, Madras.



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V.M.VELUMANI, J.,

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