

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P. No.8081 of 2020

1.Dhivakar
2.D.Sathish Kumar

... Petitioners

Vs.

... Respondent

The State represented by
The Inspector of Police,
Padalam Police Station,
Kancheepuram District.
Crime No.710 of 2020.

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of their arrest by the respondent in Crime No.710 of 2020 on the file of the respondent police.

For Petitioners : Mr.G.Mageshkumar

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 379, 430 IPC r/w. Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.710 of 2020.

2.The case of the prosecution is that the petitioners had transported 2 units of gravel sand by using Tipper lorry, without any valid licence. Hence the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners did not commit any offence as alleged by the prosecution and they have been falsely implicated in this case. On instruction, he would further submit that the petitioners are prepared to deposit an amount of **Rs.10,000/- (Rupees Ten Thousand Only) each to any charitable organization.** Hence, he prays for grant of anticipatory

bail to the petitioners.

4.The learned Additional Public Prosecutor submitted that the quantity of sand involved is 2 units. He further submitted that the petitioners have no previous case. Hence, he opposed for the grant of anticipatory bail to the petitioner.

5.In view of the fact that there is no previous case against the petitioners and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of **Rs.10,000/- (Rupees Ten Thousand Only) each by way of NEFT/RTGS to the Adyar Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai**, without prejudice to his rights and contentions before the trial Court.

6.Merely, because the petitioners deposits the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

7.Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are directed to deposit a sum of **Rs.10,000/- (Rupees Ten Thousand Only) each by way of NEFT/RTGS to the Adyar, Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai, bearing A/c No.149710011005477, Andhra Bank, Madhya Kailash Branch**, and on such deposit, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned **Judicial Magistrate-I, Chengalpattu**, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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 petitioners 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 petitioners shall report before the respondent police as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 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 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.

-sd/-
05/06/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.1, CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PADALAM POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE NEFT/RTGS TO THE ADYAR, CANCER INSTITUTE
(WIA), EAST CANAL BANK ROAD, ADYAR, CHENNAI,
BEARING A/C NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH.

CC to MR.G.MAGESHKUMAR, Advocate on payment of necessary charges

CRL OP.8081/2020

Date :05/06/2020

TA-18/06/2020