

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.8095 of 2020

Kanalvanan

.. Petitioner / Accused

Vs.

State rep. by .. Respondent/Complainant
The Inspector of Police,
Nellikuppam Police Station,
Cuddalore District.
(Crime No.423/2020)

Prayer: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code, to enlarge the petitioner on bail in the event of his arrest in Crime No.423 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.G.Balamanikandan

For Respondent : Mr.K.Prabhakar,
Add Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379, 430 of IPC read with Section 21(1) of M & M (Development and Regulation) Act 1957 in Crime No.423 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner transported 1 bag of river sand by using two wheeler without any valid licence. Hence the complaint.

3. This court heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondent and also perused the materials placed before this Court.

4. According to the Petitioner, the Petitioner is in no way connected with the alleged offences and he has been falsely implicated in the case on hand and he would submit that there is no

previous case against the petitioner. On instruction, he would further submit that the petitioner is prepared to deposit an amount of Rs.2,500/- as non refundable deposit to the credit of concerned District/Taluk Legal Services Authority and prayed for grant of Anticipatory Bail.

5. On the other hand, the learned Additional Public Prosecutor, while opposing to grant anticipatory bail, would submit that the Petitioner had transported 1 bag of river sand. Hence, he opposed for the grant of anticipatory bail to the petitioner.

6. In view of the fact that there is no previous case against the petitioner and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of **Rs.2,500/- (Rupees Two Thousand Five hundred Only)** as non refundable deposit to the credit of the **concerned District/Taluk Legal Services Authority** without prejudice to his rights and contentions before the trial Court.

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

8. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a sum of Rs.2,500/- (Rupees two thousand five hundred only) as non refundable deposit to the credit of the **concerned District/Taluk Legal Services Authority** and on such deposit, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Judicial Magistrate No.1, Cuddalore**, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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 petitioner 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 petitioner shall deposit a sum of Rs.2,500/- (Rupees two thousand five hundred only) as non refundable deposit to the credit of the concerned District/Taluk Legal Services Authority.

[c] the petitioner shall report before the respondent police as and when required for interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/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 in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-

03/06/2020

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, CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NELLIKUPPAM POLICE STATION,
CUDDALORE DISTRICT.

5 THE SECRETARY,
DISTRICT/TALUK LEGAL SERVICES AUTHORITY
HIGH COURT, MADRAS.

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

CRL OP.8095/2020

Date :03/06/2020