

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.8178 of 2020

Appu @ Gopalakrishnan

... Petitioner

Vs.

State by

... Respondent

The Inspector of Police,
Harithuvaramangalam Police Station,
Tiruvarur.
Crime No.161 of 2020.

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioner in the event of his arrest by the respondent police in Crime No.161 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.M.Jaikumar

For Respondent : Mr.K.Prabakar
Additional 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 offences punishable under Section 379 of IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.161 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner had transported 60 bags of river sand by using Mahindra Tourister vehicle without any valid license. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. On instruction, he would further submit that the petitioner is prepared to deposit a sum of **Rs.15,000/- (Rupees Fifteen Thousand Only) by way of demand draft, to the Adyar Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai.** Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the quantity of river sand involved is 60 bags. He would further submit that the petitioner has one previous case. Hence, he opposed for the grant of anticipatory bail to the petitioner.

5.Generally, when this Court does not grant anticipatory bail to the petitioner, if there is a previous case, taking into consideration the Covid-19 pandemic situation and also the fact that the petitioner is prepared to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to any charitable organization, this Court is inclined to grant anticipatory bail to the petitioner .

6.In view of the fact that there is one 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.15,000/- (Rupees Fifteen Thousand Only) by way of demand draft, to the Adyar Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai,** 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.15,000/- (Rupees Fifteen Thousand Only) 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 and production of proof, 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 is made ready, before the learned **District Munisif-Cum-Judicial Magistrate, Needamangalam,** on further condition that the petitioner shall execute a 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 report before the respondent police as and when required for interrogation.**

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

[d] the petitioner 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 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]**.

[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 DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
NEEDAMANGALAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
HARITHUVARAMANGALAM POLICE STATION,
TIRUVARUR 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 M/S.M.JAIKUMAR Advocate on payment of necessary charges

CRL OP.8178/2020

Date :05/06/2020

TA-18/06/2020

<https://hcservices.ecourts.gov.in/hcservices/>