

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2020

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THE HONOURABLE MR JUSTICE N.ANAND VENKATESH

Crl.O.P.No.8433 of 2020

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...Petitioner/Accused 2

Vs

The State rep. By
The Inspector of Police,
Kuthalam Police Station,
Kuthalam.
(Crime No.99 of 2020)

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on Anticipatory bail in the event of his arrest in Crime No: 99 of 2020 pending investigation on file of the respondent Police.

For petitioner : Mr.S.Ashok Kumar

For respondent : Mr.Mohammed Riyaz,
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 21 (1) of Mines and Minerals (Development & Regulations) Act 1957, 379 and 430 IPC in Crime No.99 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that while conducting a prohibition raid by the respondent police, the petitioner has illegally transported 2 ½ units of sand by using a lorry without any permit or valid license and it was seized by the respondent police.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he did not commit any offense as alleged by the prosecution and they have been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is 2 ½ units of sand. The learned counsel further submitted that there is no previous case pending against this petitioner.

5.This Court is of the opinion that the petitioners can be directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five thousand only) as non-refundable deposit to the credit of the Tamil Nadu Advocate Clerks Association, High Court, Madras, without prejudice to their rights and contentions before the trial Court. Merely, because the petitioners have deposited 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.

6.Considering the facts and circumstances of the case, 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 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 II, Mayiladuthurai, on condition that the petitioner shall execute a separate 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties 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.25,000/- (Rupees Twenty Five thousand only) as non refundable deposit to the credit of the **Tamil Nadu Advocate Clerks Association, Madras High Court, Chennai (Indian Bank, High Court Branch, A/c No.484026006, IFSC Code:IDIB000M157).**

[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.

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[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.

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To

- 1.The Inspector of Police,
Kuthalam Police Station,
Kuthalam.
- 2.The learned Judicial Magistrate II,
Mayiladuthurai.
- 3.The Additional Public Prosecutor,
Chennai.

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