

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.8595 of 2020

1.Karthick,
S/o.Sekar.

2.Santhosh,
S/o.Sankar.

3.Rajesh,
S/o.Ramesh.

4.Rahul,
S/o.Ravi.

5.Prakash @ Jayaprakash,
S/o.Raji.

.. petitionerss

Vs.

State represented by
The Inspector of Police,
Nellikuppam Police Station,
Cuddalore District.

..Respondent

Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in Crime No.201 of 2020 pending investigation on the file of the respondent.

For petitioners : Mr.K.Thenrajan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 and 430 IPC r/w Section 21 (1) of the Mines and Minerals (Development & Regulations) Act 1957, in Crime No.201 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that while conducting a prohibition raid by the respondent police, the petitioners have illegally transported half unit of sand by using a TATA ACE mini truck bearing Registration No.TN-31-AB-5532 without any permit or valid licence and it was seized by the respondent police.

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

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is half unit of sand. The learned counsel further submitted that there is no previous case pending against the petitioners.

5.This Court is of the opinion that the petitioners can be directed to deposit a sum of Rs.5000/- (Rupees Five thousand only) each, as non-refundable deposit to the credit of President Tamil Nadu Advocate Clerk 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 petitioners with certain conditions. Accordingly, the petitioners are 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.I, Cuddalore, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, 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 conditions that:

[a] the petitioners 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 petitioners shall deposit a sum of Rs.5000/- (Rupees Five thousand only) each as non refundable deposit to the credit of the Tamil Nadu Advocate Clerk Association, Madras High Court, Chennai (Indian

Bank, High Court Branch, A/c No.484026006, IFSC Code:IDIB000M157).

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

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

[e] the petitioners 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 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]**.

सत्यमेव जयते

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

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nsd

Index:yes/no

Speaking order/non speaking order

To

1.The Judicial Magistrate No.I,
Cuddalore.

2.The Inspector of Police,
Nellikuppam Police Station,
Cuddalore District.

3.The Public Prosecutor,
Madras High Court,
Chennai.

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N.ANAND VENKATESH,J.

nsd



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