

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2020

CORAM

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

Crl. O.P. No.8618 of 2020

Aasai @ Asaithambi

... Petitioner

-Vs-

The State
Represented by Inspector of Police,
Karuvepillankurichi Police Station,
Cuddalore District.
(Crime No.125 of 2020)

... Respondent

PRAYER:- Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail pending investigation in Crime No.125 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.C.Vishwanth

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 379, 430 of IPC r/w 21 (1) of

Mines and Minerals (Development & Regulations) Act 1957, in Crime No.125 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 $\frac{1}{4}$ unit of sand by using a bullock cart without any permit or valid licence 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 offence as alleged by the prosecution and he has 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 $\frac{1}{4}$ unit 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 petitioner can be directed to deposit a sum of Rs.2,500/- (Rupees Two thousand and Five hundred only) as non-refundable deposit to the credit of the **Tamil Nadu Advocate Clerk Association, High Court, Madras**, without prejudice to his rights and contentions before the trial Court. Merely, because the petitioner has deposited 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.

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, Vridhachalam, on condition that the petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees Five 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.2,500/- (**Rupees Two thousand and Five Hundred 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;

[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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Index: Yes/No

Speaking Order: Yes/No

To

1. The Judicial Magistrate No.II,
Vridhachalam.
2. The Inspector of Police,
Karuvepillankurichi Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court of Madras,
Chennai-600 104.



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N.ANAND VENKATESH, J.

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