

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

CRL. O.P. No.8757 of 2020

Perumal ... Petitioner/Sole Accused

-Vs-

State Rep.by

The Sub Inspector of Police,
Brammadesam Police Station,
Thiruvannamalai District.
(Crime No.134 of 2020)

... Respondent /Complainant

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in connection with Crime No.134 of 2020 on the file of the respondent police and thus render justice.

For Petitioner : Mr. V.R. Appaswamee

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

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 & 430 of IPC and Section 21(5) of Mines and Minerals (Development & Regulations) Act 1957, seeks anticipatory bail.

2. The case of the prosecution is that while conducting inspection in Puthur Palaar river bank by the respondent police, the petitioner has illegally transported $\frac{1}{4}$ unit of river sand by using 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 river sand involved is $\frac{1}{4}$ unit of sand. The learned counsel further submitted that there are no previous cases against the 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 five hundred only) as non-refundable deposit to the credit of the Tamil Nadu Advocate Clerks 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 Cheyyar, 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 Aadhaar 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 **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 absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
16/06/2020

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,
CHEYYAR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI DISTRICT.[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
BRAMMADESAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE TAMIL NADU ADVOCATECLERKS ASSOCIATION,
MADRAS HIGH COURT,CHENNAI (INDIAN BANK,
HIGH COURT BRANCH,A/C.NO.484026006,
IFSC CODE:IDIB000M157)

CC to M/S. V.R.APPASWAMEE Advocate on payment of necessary charges

CRL OP.8757/2020

Date :16/06/2020

GKS (CS) :03/08/2020