

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.06.2020
CORAM

THE HON'BLE Mr.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.8880 of 2020

1.Hanastraj
2.Yogaraj (Kutti)

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
Keevalur Police Station,
Nagapattinam District
Cr. No.148 of 2020

... Respondent

Criminal Original Petition filed under Section 438 of Criminal Procedure Code to grant anticipatory bail to the petitioners in the event of their arrest in Crime No.148 of 2020 pending on the file of the respondent Police.

For Petitioners : Mr.E.Kannadasan

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

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379, 430, 353 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.148 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 one unit of sand by using a tractor, 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 on behalf of the respondent police submitted that the quantity of sand involved is one unit. The learned counsel further submitted that there is no previous case pending against the petitioners.

5.This Court is of the opinion that each of the petitioners can be directed to deposit a sum of Rs.10,000/- (Rupees Ten 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 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 petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.I, Nagapattinam on condition that each of the petitioners shall execute a 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 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 Aadhaar card or Bank pass Book to ensure their identity.

[b] the petitioners shall deposit a sum of Rs.10,000/- (Rupees Ten 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 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]**.

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

-sd/-
18/06/2020

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,
NO.I, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KEEVALUR POLICE STATION,
NAGAPATTINAM DISTRICT.

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

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges

CRL OP.8880/2020

Date :18/06/2020

MK:15/07/2020

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