

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2020

CORAM

THE HONOURABLE MR. JUSTICE ANAND VENKATESH

CrI.O.P.No.8919 of 2020

1.Ramesh

..Petitioners/Accused

2.Ravi

1 and 2

Vs.

State represented By its
The Inspector of Police
Mohanur Police station,
Namakkal District.
Crime No. 85/2020.

... Respondent

Prayer: Petition filed u/s.438 Cr.P.C., seeking anticipatory bail praying to enlarge the petitioners on bail in the event of their arrest in Crime No.85/2020.

For Petitioners : Mr.W.Camyles Gandhi

For Respondent : Mr.Mohamed Riyaz

Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 379 IPC, in Crime No.85 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 four units of sand by using a lorry, 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 persons and they have been falsely implicated in this case and hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor on behalf of the respondent police submitted that the quantity of sand involved is 4 units. The learned counsel further submitted that the 1st petitioner has no previous case and the 2nd petitioner has four previous cases.

5. Taking into consideration the facts and circumstances of the case, this petition is dismissed insofar as the 2nd petitioner is concerned and anticipatory bail granted for the 1st petitioner.

5. This Court is of the opinion that the 1st petitioner can be directed to deposit a sum of Rs.40,000/- (Rupees forty thousand 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 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 their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Namakkal on condition that the petitioners 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 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.40,000/- (Rupees forty 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 556]**.

[g] If the accused thereafter abscond, 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.II,
NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MOHANUR POLICE STATION,
NAMAKKAL 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 W.CAMYLES GANDHI Advocate on payment of necessary charges

CRL OP.8919/2020

Date :18/06/2020

TA-26/08/2020