

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.8967 of 2020

Elavarasan

... Petitioner

Vs.

State rep. by its  
The Inspector of Police,  
Sembanarkovil Police Station,  
Nagapattinam District.  
Crime No.495 of 2020.

... Respondent

**Prayer:**

Petition filed under Section 438 of Cr.P.C., seeking to enlarge the petitioner on bail in the event of arrest in Crime No.495 of 2020 on the file of Inspector of Police, Sembanarkovil Police Station, Nagapattinam, Nagapattinam District.

For Petitioner : M/s.S.P.Harikrishnan

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 and Section 21 (1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.495 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 1/2 unit 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 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 1/2 unit of sand. He 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.5,000/- (Rupees Five Thousand Only) as non-refundable deposit to the credit of The President, Tamil Nadu Advocate Clerk Association, High Court, Madras, without prejudice to his rights and contentions before the trial Court.

6.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.

7.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 directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) 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)** and on such deposit, 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 is made ready, before the learned District Munsif - Cum - Judicial Magistrate, Tharangambadi, 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 Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) 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 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.

-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 DISTRICT MUNSIF-CUM-  
JUDICIAL MAGISTRATE, THARANGAMBADI.

2 THE CHIEF JUDICIAL MAGISTRATE  
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

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

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

CC to M/S.S.P.HARIKRISHNAN Advocate on payment of necessary charges

CRL OP.8967/2020

Date :18/06/2020

TA-26/08/2020