

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.9033 of 2020

1.Elumalai

...Petitioners

2.Kumansan @ lakshmipathy

-Vs-

The State Rep. By
The Station House Officer,
Arni Taluk Police Station,
Tiruvannamalai District.
(Cr No: 226 /2020)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure, to enlarge the petitioners on bail in the event of their arrest pending investigation in Crime No.226 of 2020 on the file of the respondent police.

For Petitioners : Mr.T.Arunkumar

For respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379, 430 of I.P.C. and Section 21(5) of Mines and Minerals Act in Crime No.226 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 1 unit of river 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 persons 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 for the respondent submitted that the quantity of river sand involved is 1 unit of sand. The learned counsel further submitted that there is no previous case pending against the petitioners.

5.This Court is of the opinion that the petitioners can be directed to deposit a sum of Rs.10,000/- (Rupees Ten thousand only) each as non-refundable deposit to the credit of President Tamil Nadu Advocate Clerk Association, High Court, Madras, without prejudice to his rights and contentions before the trial Court.

6.Merely, because the petitioners 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.

7.Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are directed to deposit a sum of Rs.10,000/- (Rupees Ten thousand only) each 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 petitioners are 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, Arni, Tiruvannamalai District, 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 condition 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 Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall deposit a sum of Rs.10,000/- (Rupees Ten thousand only) each 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

8. Accordingly, this Criminal Original Petition is ordered.

-sd/-

19/06/2020

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,
ARNI, TIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
ARNI TALUK POLICE STATION,
TIRUVANNAMALAI 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.T.ARUN KUMAR Advocate on payment of necessary charges

CRL OP.9033/2020

Date :19/06/2020

TA-05/08/2020