

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2020

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.9312 of 2020

1. Ramesh,
S/o.Murugaiyan,
No.33, VOC Street,
Thevoor, Nagapattinam.

2. S.Palaniyappan,
S/o. Selvaraj,
Mariyamman Koil Street,
Nagapattinam District.

... Petitioners

Vs.

State Rep. by
The Sub Inspector of Police,
Keevalur Police Station,
Nagapattinam District.
Cr. No.1254 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their arrest in
connection with Crime No.1254 of 2020, pending investigation on the
file of the respondent police.

For Petitioners : Mr. P.Muthamizh Selvakumar
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 430 IPC read with 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.1254 of 2020, on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners/A2 and A3 were alleged to have transported 2 bags (which are 25kg each) of river sand illegally in the two wheeler namely Passion Pro bearing Registration No.TN 51 AF 2767. Hence, the complaint.

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. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners had transported 2 bags of river sand (25 kg each) in the two wheeler illegally. He further submitted that there is no previous case pending against the petitioners.

5. This Court is of the opinion that the petitioners are directed to deposit jointly a sum of Rs.5,000/- (Rupees five thousand only) as non refundable deposit to the credit of the **Chief Justice Relief Fund, Madras High Court, Chennai**, 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 their guilt. Therefore, it is open to the trial Court to deal with the case independently.

6. 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 jointly a sum of Rs.5,000/- (Rupees five thousand only) as non-refundable deposit

to the credit of the **Chief Justice Relief Fund, Madras High Court, Chennai**, within a period of fifteen days from the date on which the order copy made ready and on such deposit the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate I, Nagapattinam, on condition that each of the petitioners shall execute a separate bond for a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties 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 jointly a sum of Rs.5,000/- (Rupees five thousand only) to the credit of the **Chief Justice Relief Fund, Madras High Court, Chennai** and shall produce the said receipt before the Court below.

[c] the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter 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 229A IPC.

25.06.2020

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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G.K.ILANTHIRAIYAN, J

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To

1. Judicial Magistrate I,
Nagapattinam,
2. The Sub Inspector of Police,
Keevalur Police Station,
Nagapattinam District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



Crl.O.P.No.9312 of 2020

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