

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2020

CORAM

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

Crl.O.P.No.9453 of 2020

Nagaraj, (Male/A-50 years),
S/o.Adhimoolam,
Aneri Village, Rachamangalam Post,
Thirupathur Taluk,
Vellore District. ... Petitioner

Vs.

State Rep.by Inspector of Police,
Thirupathur Taluk Police Station,
Vellore District.
Crime No.581 of 2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of his arrest in
Crime No.581 of 2020 on the file of the Inspector of Police, Thirupathur
Taluk Police Station, Vellore District.

For Petitioner : Mr.G.Vinodh Kumar
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 304(2) and 430 of IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.581 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that on 16.06.2020 at about 2.00 p.m., on a secret information the de-facto complainant, VAO went to the petitioner's land for enquiry and found that the petitioner excavated the land for sand. Thereafter, in the said pit, the son of the petitioner fell down and died. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is a father of the deceased and the petitioner dig up the land, which is a patta land, for excavating the sand. Unfortunately, his son fell down in the pit and died. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that when the sand was excavated, the petitioner's son fell down and died. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Considering the above fact and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, 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 made ready, before the learned Judicial Magistrate No-II, Thirupathur, on condition that the petitioner 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 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 report before the respondent police as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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]**.

[f] If the accused thereafter abscond/s, a fresh FIR can be registered under Section 229A IPC.

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

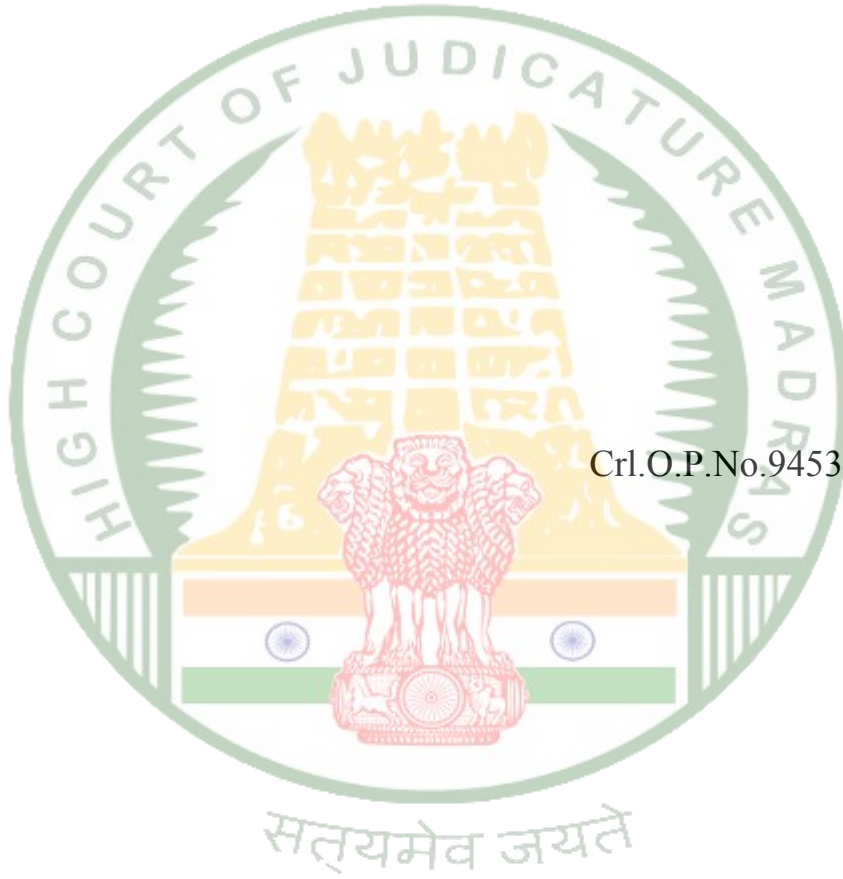
1. The Judicial Magistrate No.II, Thirupathur.
2. The Inspector of Police,
Thirupathur Taluk Police Station,
Vellore District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J

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