

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2020

CORAM

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

CrI.O.P.No.9456 of 2020

1. Tamizhamuthan (34/2020)

S/o.Chakaravaarthi,
Vinayakar Kovil Street,
Nathamedu, Melpattampakkam Post,
Panruti, Cuddalore District.

2. Balamurugan (37/2020),

S/o.Selvaraja,
Vinayakar Kovil Street,
Nathamedu, Melpattampakkam Post,
Panruti, Cuddalore District.

... Petitioners

Vs.

State rep.by its Inspector of Police,
Nellikuppam Police Station,
Cuddalore District.

Crime No.435 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in event of their arrest pending
investigation in connection with Crime No.435 of 2020 on the file of the
respondent.

For Petitioners : Mr.S.Gopinath

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, 430 IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.435 of 2020, on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners are alleged to have transported each 50 kgs of river sand illegally. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. 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 sand involved is each 50 kgs of sand. He further submitted that there is no previous case pending against the petitioners. Hence he vehemently opposed to grant anticipatory bail to the petitioners.

5. This Court is of the opinion that the petitioners are directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) jointly, as non refundable deposit to the credit of the Hon'ble the Chief Justice Relief Fund, High Court of Madras, 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 a sum of

Rs.10,000/- (Rupees Ten Thousand only) jointly, as non refundable deposit to the credit of the Hon'ble the Chief Justice Relief Fund, High Court of Madras, 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 No.I, Cuddalore, Cuddalore District, on condition that each of 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) jointly to the credit of the Hon'ble the Chief Justice Relief Fund, High Court of Madras, 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.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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G.K.ILANTHIRAIYAN, J

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To

1.The Judicial Magistrate No.I, Cuddalore,
Cuddalore District.

2.The Inspector of Police,
Nellikuppam Police Station,
Cuddalore District.

3. The Public Prosecutor,
Madras High Court,
Chennai.

Crl.O.P.No.9456 of 2020



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