

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2020

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P No.9772 of 2020

S.Ezhilarasan

.. Petitioner

vs.

The Inspector of Police,
Magaral Police Station,
Kancheepuram District.
(Cr.No.271/2020)

.. Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, praying to enlarge the petitioner on bail in the event of his arrest in Cr. No. 271 of 2020, on the file of respondent Police.

For Petitioner : Mr.R.Sasi 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 alleged offences punishable under Sections 379, 430 IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 r/w. 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, in Crime No.271 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that during inspection in Cheyyar river bank, the respondent police found that the petitioner transported 1/2 unit of river sand illegally by using the bullock cart. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he did not commit any offence as alleged by the respondent. 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 the petitioner. However he vehemently opposed to grant

anticipatory bail to the petitioner.

5. This Court is of the opinion that the petitioner is directed to deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** as non refundable deposit to the credit of the Madras High Court Advocates Clerks Welfare Associations (Indian Bank, A/c No.484077244, IFSC Code:IDIB000M157), without prejudice to his rights and contentions before the trial Court. 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.

6. Taking note of the facts and circumstances, 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.10,000/- (Rupees Ten Thousand only)** as non refundable deposit to the credit of the Madras High Court Advocates Clerks Welfare Associations (Indian Bank, A/c No.484077244, IFSC Code:IDIB000M157), within a period of fifteen days from the date on which the order copy made ready and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.II, Kancheepuram, 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 deposit a sum of **Rs.10,000/- (Rupees ten thousand only)** to the credit of the Madras High Court Advocates Clerks Welfare Associations (Indian Bank, A/c No.484077244, IFSC Code:IDIB000M157) and shall produce the said receipt before the Court below.

[c] the petitioner 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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

30/06/2020

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 NO.II,
KANCHEEPURAM

2 THE CHIEF JUDICIAL MAGISTRATE,
CHENGALPATTU [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MAGARAL POLICE STATION,
KANCHEEPURAM DISTRICT.

5 MADRAS HIGH COURT ADVOCATES CLERKS WELFARE ASSOCIATIONS
(INDIAN BANK, A/C NO.484077244, IFSC CODE:IDIB000M157)

CC to M/S R.SASIKUMAR Advocate on payment of necessary charges

CRL OP.9772/2020

Date :30/06/2020

MN-RVR-17/08/2020