

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2020

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.9821 of 2020

1.D.Prakash
2.M.Pachayappan
3.C.Velmurugan

...Petitioners

Vs.

State Rep. By
The Inspector of Police,
Veraiyur Police Station,
Tiruvannamalai District.
(Cr.No.1531 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 Crime No.1531 of 2020 on the file of the respondent police.

For Petitioners: Mr.J.Prakasam

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, in Crime No.1531 of 2020, on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that each of the petitioners are alleged to have smuggled two bags of sand illegally by their two wheeler. 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 and false case has been foisted against the petitioners and they are ready to abide any conditions that may be imposed by this Court. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent, submitted that three different FIRs have been registered against these three petitioners for smuggling of river

sand illegally. He would further submit that the present crime No.1531 of 2020 has been registered only against the first petitioner and separate FIRs have been registered against the 2nd and 3rd petitioners and hence they have to file separate petitions seeking anticipatory bail. He would further submit that as far as the first petitioner is concerned, there are no previous cases pending against him. However, he opposed to grant anticipatory bail to the first petitioner.

5. In view of the above submissions made by the learned Additional Public Prosecutor, this petition is dismissed insofar as 2nd and 3rd petitioners are concerned, since separate FIRs have been registered against them. However, the petitioners 2 & 3 are at liberty to file a fresh petitions seeking anticipatory bail mentioning the correct crime number registered against them.

6. This Court is of the opinion that the first petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of Madras High Court Advocates Clerks Welfare Association A/c.No.484077244 (IFSC Code:IDIB000M157) (R.Ayyppan - 9444386043, A.Dhamodharan - President - 944345757) the without prejudice to his rights and contentions before the trial Court. Merely, because the first 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.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the first petitioner with certain conditions. Accordingly, the first petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of Madras High Court Advocates Clerks Welfare Association A/c.No.484077244 (IFSC Code:IDIB000M157) (R.Ayyppan - 9444386043, A.Dhamodharan - President - 944345757) within a period of fifteen days from the date on which the order copy made ready and on such deposit the first petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned District Judicial Magistrate-I, Tiruvannamalai, on condition that the first 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 first 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 first petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of the Madras High Court Advocates Clerks Welfare Association A/c.No.484077244 (IFSC

Code:IDIB000M157) (R.Ayyppan - 9444386043, A.Dhamodharan - President - 944345757) and shall produce the said receipt before the Court below.

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

[e] the first 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 first petitioner in accordance with law as if the conditions have been imposed and the first 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/-
01/07/2020

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 DISTRICT JUDICIAL MAGISTRATE-I,
TIRUVANNAMALAI.

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VERAIYUR POLICE STATION,
TIRUVANNAMALAI DISTRICT.

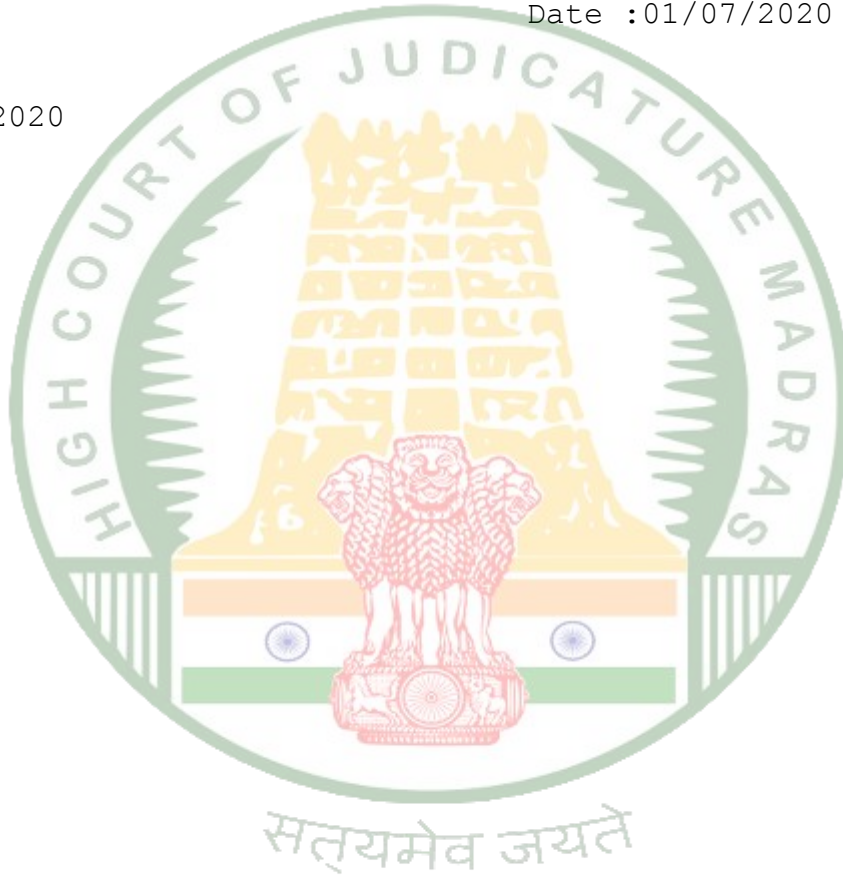
5 MADRAS HIGH COURT ADVOCATES CLERKS WELFARE ASSOCIATION
A/C.NO.484077244 (IFSC CODE:IDIB000M157)
(R.AYYPPAN - 9444386043, A.DHAMODHARAN - 944345757)

CC to M/S J.PRAKASAM Advocate on payment of necessary charges

CRL OP.9821/2020

Date :01/07/2020

MN-MK-31/07/2020



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