

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10206 of 2020

1.J.Dhanasekar

2.Kozhunthu @ Govindaraj

... Petitioners

Vs.

State Represented by :-

The Sub Inspector of Police,
Naduveerapattu Police Station,
Cuddalore District.

Cr. No.374 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 by the respondent police in Crime No.374 of 2020, pending
investigation on the Respondent police.

For Petitioners : Mr.T.Balachandran

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the
respondent police for the alleged offences punishable under Sections
430, 379 of IPC and r/w Section 21(1) of Mines and Minerals
(Development and Regulations) Act 1957 in Crime No.374 of 2020, on
the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners have
transported quarter unit of river sand illegally by using Bullock
cart. Hence the complaint.

3. The learned counsel appearing for the petitioners would
submit that the petitioners are innocent persons and they have been
falsely implicated in this case. On instruction, he would further
submit that the petitioners are prepared to deposit some
considerable amount to any charitable organization without prejudice
to their contention and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is quarter unit. He further submitted that there is no previous case pending against the petitioners. Hence, he opposed for the grant of anticipatory bail to the petitioners.

5. It is seen that there is no previous case against the petitioners and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees five Thousand only) each as non refundable deposit to the Tamil Nadu Advocate Clerk Association, High Court of Madras, Indian Bank High Court Branch A/c No.484026006 IFSC Code No.IDIB000M157 without prejudice to his rights and contentions before the trial Court.

6. 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.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

[a] Accordingly, the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees five Thousand only) each as non-refundable deposit either through RTGS/NEFT in favour of the Tamil Nadu Advocate Clerk Association, High Court of Madras, Indian Bank High Court Branch A/c No.484026006 IFSC Code No.IDIB000M157 within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioners are directed to be released on bail in the event of their arrest or their appearance and on production of proof of deposit of the above amount and on further condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for the likesum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioners shall also give an letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[b] 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.

[c] the petitioners shall report before the respondent police on every Monday and Friday at 10.30am, until further orders.

[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 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.

8.With the above directions, this Criminal Original Petition is ordered.

9.For reporting compliance, post on 29.07.2020.

-sd/-
07/07/2020

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 JUDICIAL MAGISTRATE,
NO.I, CUDDALORE, CUDDALORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUB INSPECTOR OF POLICE,
NADUVEERAPATTU POLICE STATION,
CUDDALORE DISTRICT.

4 THE SECRETARY
TAMIL NADU ADVOCATE CLERK ASSOCIATION,
HIGH COURT OF MADRAS,
INDIAN BANK HIGH COURT BRANCH
A/C NO.484026006
IFSC CODE NO.IDIB000M157

CC to M/S. T.BALACHANDRAN Advocate on payment of necessary charges

CRL OP.10206/2020

Date :07/07/2020