

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 10351 of 2020

[*]1.Sabapathy,@Sabanayagam M/47 years,

S/o.Veeramani,

Melamoonkiladi,

Bhuvanagiri Taluk,

Cuddalore District.

2.Pugazhenth, M/58 years,

S/o.Ramaiya,

Melamoonkiladi,

Bhuvanagiri Taluk,

Cuddalore District.

... Petitioners/Accused Nos.1 & 2

Vs.

The State represented by,

The Inspector of Police,

Chidambaram Taluk Police Station,

Cuddalore District.

(Crime No.288 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in connection with Crime No. 288 of 2020 pending on the file of the respondent.

For Petitioners : Mr.V.Sakkarapani

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

379, 430 of IPC and Sections 21(1) of Mines and Minerals (Development and Regulation) Act 1957 in Crime No.288 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 sand illegally by using Tractor without any valid licence. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and he has 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 or association 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 one 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 one previous case against the petitioners and in order to curb the illegal sand mining activities, this Court is of the opinion that each of the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the concerned District Legal Services Authority, without prejudice to their 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) Each of the petitioners is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non-refundable deposit either through RTGS/NEFT or cash in favour of the concerned District Legal Services Authority, 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 each of the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees 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 a 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 respondent/police 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 10.30 a.m., 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 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 abscond, 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 30.07.2020.

-sd/-
09/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

सत्यमेव जयते
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

[*]1st petitioner name is amended and Two weeks time is extended to surrender and comply with the condition, from the date of lifting of the lockdown or the commencement of the Court's normal functioning which ever is earlier, as per the order of this court dated 13/08/2020 made in CrI.M.P.No.4814 of 2020 in CrI.O.P.No.10351 of 2020.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, CHIDAMBARAM

2 THE OFFICER INCHARGE
DISTRICT LEGAL SERVICES AUTHORITY,
CUDDALORE

3 THE SECRETARY
TAMILNADU LAGAL AID SERVICES COMMITTEE
HIGH COURT,MADRAS

4 THE INSPECTOR OF POLICE,
CHIDAMBARAM TALUK POLICE STATION,
CUDDALORE DISTRICT

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

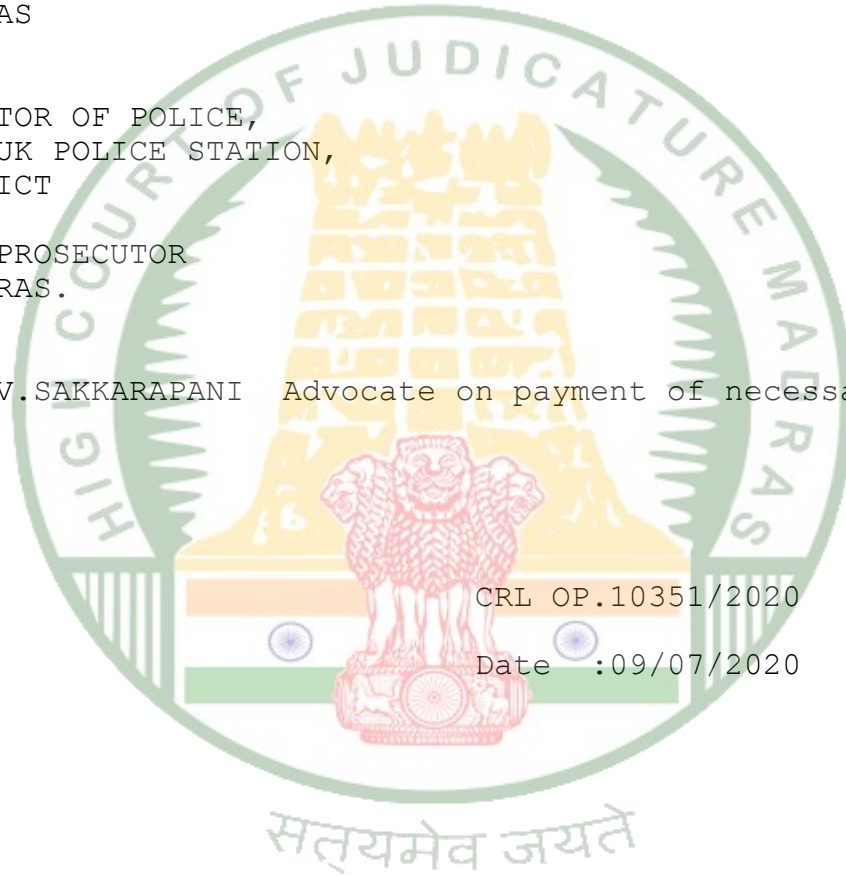
CC to M/S.V.SAKKARAPANI Advocate on payment of necessary
charges

CRL OP.10351/2020

Date :09/07/2020

rd 20/07/2020

RD 15/09/2020



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