

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.10261 of 2020

1. A.Kaliyaperumal (age 52 years)

S/o.Arumugam,
No.97, Mela Kondethur,
Kondathur Post,
Sirkali T.K, Nagapattinam Dt.

2. B.Senthilkumar age 47 years,

S/o.Balaiya,
3/59, Madha Kovil Street,
Natham Post,
Cholachakkaranaloor,
Sirkali T.K
Nagapattinam Dt.

... Petitioners

Vs.

State Rep by
Inspector of Police,
Vaitheeswaran Kovil Police Station,
Nagapattinam District.
(Crime No.561 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.561 of 2020 on the file of the respondent police.

For Petitioners : Mr.N.Chinnaraj

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 & 420 IPC and 21(1) of Mines and Minerals (Development and
Regulations) Act 1957, in Crime No.561 of 2020, on the file of the
respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the 1st petitioner is
the lessee of the temple land and the 2nd petitioner is the JCB owner,
they have excavated the sand from temple land for sale 150 units,
without any permission. Hence, the complaint..

3. The learned counsel appearing for the petitioners would
submit that the petitioners are innocent persons and they have been
<https://hcservices.courts.mil.in/hcservices/> 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 150 units. 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 1st petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) and 2nd petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172 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) The 1st petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) and 2nd petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit through RTGS/NEFT in favour of the Chief Minister's Public Relief Fund, Indian Overseas Bank, Secretariat Branch, Chennai SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172 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 petitioners shall execute a separate bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for the like sum 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 petitioner 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 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 10.30am, 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 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.

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

9. Post the matter on 30.07.2020, for reporting compliance.

-sd/-

08/07/2020

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,
SIRKALI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VAITHEESWARAN KOIL POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE CHIEF MINISTERS PUBLIC RELIEF FUND,
INDIAN OVERSEAS BANK,
SB.A/C. NO.117201000000070,
IFSC CODE. NO.IOBA0001172

CC to M/S. N.CHINNARAJ Advocate on payment of necessary charges

CRL OP.10261/2020

Date :08/07/2020

rd 20/07/2020

<https://hcservices.ecourts.gov.in/hcservices/>