

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.10358 of 2020

M.Pachayappan

... Petitioner

Vs.

State rep.by
The Inspector of Police
Veraiyur Police Station,
Thiruvannamalai District
Crime No.1530 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest in Crime No.1530 of 2020 on the file of the respondent police.

For Petitioner : Mr.J.Prakasam

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

O R D E R

(This case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 379 and 430 of IPC in Crime No.1530 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner is alleged to have transported 2 bags of sand illegally. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner transported 2 bags of sand illegally in a two wheeler. He further submitted that there is no previous case pending against the petitioner.

5. It is seen that there is no previous case against the petitioner and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non refundable deposit either through RTGS/NEFT or in cash in favour of the District Legal Services Authority, Tiruvannamalai District, without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioner has 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.

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

(a) Accordingly, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non refundable deposit either through RTGS/NEFT or in cash in favour of the concerned District Legal Services Authority, Tiruvannamalai District, within 15 days from the date of receipt of a copy of this order. Therefore, the petitioner is directed to be released on bail in the event of his arrest or his appearance and on production of proof of deposit of the above amount and on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for the like sum to the satisfaction of the respondent police or 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 a letter of undertaking before the respondents/police that the said amount has been paid in respect of particular crime number.

[b] 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.

[d] 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.

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

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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]**.

[h] 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 31.07.2020.

-sd/-
09/07/2020

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,
TIRUVANNAMALAI DISTRICT

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 THE SECRETARY,
TAMILNADU LEGAL AID SERVICES AUTHORITY,
HIGH COURT, MADRAS.

6 THE DISTRICT LEGAL SERVICES AUTHORITY,
TIRUVANNAMALAI DISTRICT.

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

CRL OP.10358/2020

Date :09/07/2020