

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDRA

Cr1.O.P.No.10527 of 2020

Suresh

...Petitioner

-Vs-

State Rep. by the
The Sub-Inspector of Police,
Kalambur Police Station,
Tiruvannamalai District.
(Crime No.1633 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of his arrest in Crime No.1633 of 2020 pending on the file of the Respondent Police.

For Petitioner : Mr.B. Jawahar

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

ORDER

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 & 430 of IPC, r/w Section 21 (1) & 21(5) of Mines and Minerals (Development & Regulations Act, 1957, in Crime No.1633 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had illegally transported ½ unit of sand in TATA Ace, without any permit or valid licence and it was seized by the respondent police.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. On instruction, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable organization. Hence, he prays

for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the quantity of sand involved is $\frac{1}{2}$ unit. Hence he vehemently opposed to grant anticipatory bail to the petitioner.

5. 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 to the Chief Justice Relief Fund without prejudice to his rights and contentions before the trial Court.

6. Merely, because the 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 petitioner with certain conditions.

(a) The petitioner is directed to deposit a sum of Rs.5,000/- as non-refundable deposit through RTGS/NEFT or demand draft in favour of the "Chief Justice Relief Fund" within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, 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/- (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 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 petitioner 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 petitioner shall report before the respondent police on every Monday and Friday at 10.30am, until further orders.

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

[e] the 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 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 07.08.2020.

-sd/-
14/07/2020

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,
ARANI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
KALAMBUR POLICE STATION,
KALAMBUR,
THIRUVANNAMALAI DISTRICT.

5 THE SECTION OFFICER
ACCOUNT SECTION
CHIEF JUSTICE RELIEF FUND
HIGH COURT, MADRAS.

CC to M/S. B.JAWAHAR Advocate on payment of necessary charges

CRL OP.10527/2020

Date :14/07/2020

TA-30/07/2020