

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.10535 of 2020

1. Dhivan ...Petitioners
2. Siva

-Vs-

State Rep. By ...Respondent
The Inspector of Police,
Walajabath Police Station,
Kancheepuram District.
(Crime No.967 of 2020)

Prayer: Criminal Original Petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioners on bail in the event of their arrest in Crime No.967 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Punniakoti

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 & 403 of IPC, r/w Section 21 (1) of Mines and Minerals Act and r/w 3 (1) of TNPPDL Act, in Crime No.967 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners have transported ½ unit of sand in Bullock Cart, without any permit or valid licence and it was seized by the respondent police.

3. The learned counsel for the petitioners 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 ½ 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 petitioners are directed to deposit a sum of Rs.5,000/- as non-refundable deposit through RTGS/NEFT 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 petitioners are 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 petitioners shall execute a bond for a sum of Rs.10,000/- (Ten thousand only) each 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 their 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 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 NO.I,
KANCHEEPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
CHENGALPATTU [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
WALAJABATH POLICE STATION,
KANCHEEPURAM DISTRICT.

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

CC to M/S. G.PUNNIYAKOTTI Advocate on payment of necessary charges

CRL OP.10535/2020

Date :14/07/2020

MN-MK-31/07/2020