

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10621 of 2020

1. R. Sabdul Sathar Shek
2. A. Adaikalaraj

... Petitioners

-Vs-

State Rep. By the Inspector of Police,
Melmaruvathur Police Station,
Chengalpattu District.
(Crime No.850 of 2020)

...Respondent

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.850 of 2020 pending on the file of the Respondent Police.

For Petitioners : Mr.G. Punniakoti

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

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 430, 379 of IPC, Section 21 (1) of Mines and Minerals (Development & Regulations Act, 1957, in Crime No.850 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported ½ unit of sand in lorry, 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 petitioners are innocent and they did not commit any offence as alleged by the prosecution and they have been falsely implicated in this case. On instruction, he would further submit that without prejudice to their defence, the petitioners are prepared to deposit considerable amount to any charitable organization. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the quantity of sand involved is $\frac{1}{2}$ unit. He further submit that the first petitioner was arrested and released on bail and the second petitioner is the owner of the lorry. There are no previous cases against the petitioners. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five thousand only) as non refundable deposit to 'The Chief Minister's Public Relief Fund', Indian Overseas Bank, 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 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 petitioners 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 'The Chief Minister's Public Relief Fund', Indian Overseas Bank, 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 the each petitioner shall execute a separate 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 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 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 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 09.08.2020.

-sd/-

16/07/2020

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,
MADURANTAKAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
MELMARUVATHUR POLICE STATION,
CHENGALPATTU DISTRICT

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

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

CRL OP.10621/2020

Date :16/07/2020

RVR 04/08/2020