

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.11058 of 2020

1. Govindan @ Govindasamy
2. M. Murali

... Petitioners/A1&A2

Vs.

The State Represented by,
The Inspector of Police,
Bagalur Police Station,
Krishnagiri District.
Crime No.38 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
to enlarge the petitioners on bail in the event of arrest in
Connection with the Crime No.38 of 2020 pending on the file of the
respondent police.

For Petitioners : Mr. E. Kannadasan

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

ORDER

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the
respondent police for the alleged offence punishable under Section
379 of IPC in Crime No.38 of 2020, on the file of the respondent
police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is
that the petitioners had transported dust by using lorry without
obtaining proper license. Hence, the complaint.

3. The learned counsel appearing for the petitioners would
submit that the first petitioner is the driver and the second
petitioner is the owner of the lorry 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 or
Association. Hence, he prays to grant anticipatory bail to the
petitioners.

4. The learned Additional Public Prosecutor submitted that the petitioners were transporting dust without proper licence. Hence he opposed for the grant of anticipatory bail to the petitioners.

5. This Court is of the opinion that the petitioners shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each, as non-refundable deposit to the "Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Account No:6873278505, Indian Bank, Madras High Court Branch with IFSC Code - IDIB000M157" without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioners deposits 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 petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each, as non-refundable deposit to the "Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Account No:6873278505, Indian Bank, Madras High Court Branch with IFSC Code - IDIB000M157" 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 on their appearance and on production of proof of deposit of the above amount and on further condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for a 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 petitioners shall also give a 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 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner is 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.

Post the matter for "reporting compliance" on 14.08.2020.

-sd/-
24/07/2020

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.II, HOSUR, KRISHNAGIRI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, सत्यमेव जयते
BAGALUR POLICE STATION,
KRISHNAGIRI DISTRICT.

4 THE BAR COUNCIL OF TAMIL NADU
AND PUDUCHERRY (BCTNP) ADVOCATES RELIEF FUND,
ACCOUNT NO:6873278505,
INDIAN BANK, MADRAS HIGH COURT BRANCH
WITH IFSC CODE - IDIB000M157

CC to M/S. E.KANNADASAN Advocate on payment of necessary charges

CRL OP.11058/2020

Date :24/07/2020