

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.10796 of 2020

M.Mathiyalagan, M/52 years,
S/o.Muthaliyappan,
D.Noo.2/170, Keelauppur,
Alangadu Uppur,
Tiruvarur District - 614 704. Petitioner/ Sole Accused

Vs.

The State represented by,
The Inspector of Police,
Muthupettai Police Station,
Tiruvarur District.
(Crime No. 1259 of 2020) Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police pending investigation of the case in Crime No.1259 of 2020, on the file of the respondent.

For Petitioner : Mr.M.Vijayaragavan

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

O R D E R

(The 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 Sections 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and 379 of IPC in Crime No. 1259 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution is that the petitioner was found in illegal transportation of one unit of river sand by using Tractor without valid licence. Hence, the complaint.

3 The learned counsel appearing for the petitioner would
<https://hcservices.ecourts.gov.in/hcservices/>

submit that the petitioner is an innocent person and 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 or Association. Hence, he prays to grant anticipatory bail to the petitioner.

4 The learned Additional Public Prosecutor submitted that the petitioner was transporting one unit of sand through Tractor. He would further submit that there is no previous case. Hence he vehemently opposed for the grant of anticipatory bail to the petitioner.

5 In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as non refundable deposit to the "Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Indian Bank, Madras High Court Branch, A/c.No.6873278505, IFSC Code: IDIB000M157" without prejudice to his rights and contentions before the trial Court.

6 Merely, because the petitioner deposits 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.15,000/- (Rupees Fifteen Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of "Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Indian Bank, Madras High Court Branch, A/c.No.6873278505, IFSC Code: IDIB000M157" 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 on 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 a like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stands dismissed automatically and on further condition that the petitioner 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 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 every Monday and Friday at 10.30 am until further orders.

<https://hcservices.ecourts.gov.in/hcservices/>

[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 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.

9. For reporting compliance, post on 13.08.2020.

-sd/-

21/07/2020

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,
THIRUTHURAIPOONDI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
TIRUVARUR DISTRICT,

4 BAR COUNCIL OF TAMIL NADU
AND PUDUCHERRY [BCTNP] ADVOCATES RELIEF FUND,
INDIAN BANK, MADRAS HIGH COURT BRANCH,

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

CRL OP.10796/2020

Date : 21/07/2020

RD 03/08/2020