

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10786 of 2020

Haridoss

... petitioner

Vs.

State rep. by its

The Inspector of Police

Sholavaram Police Station,

Thiruvallur District.

Crime No.859 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest concerned in Crime No.859 of 2020, on the file of the Inspector of Police, Sholavaram Police Station, Thiruvallur District, on such terms and conditions.

For petitioner : Mr.P.Chandra Sekar

For Respondent : Mr.M. Mohammed 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 379 & 430 IPC in Crime No.859 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner has transported one unit of river sand illegally by using his Tractor without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On instruction, he would further submit that the petitioner is prepared to deposit considerable amount to any charitable organization or association without prejudice to his contention and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of river sand involved is one unit. He further submitted that there is one previous case pending

against the petitioner.

5. Normally, this Court is not grant anticipatory bail when there are previous cases. However, since it is stated by the learned Counsel for the petitioner submitted that the petitioner is prepared to deposit some amount to any charitable organization and 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.30,000/- (Rupees Thirty Thousand only) as non refundable deposit to "The Bar Council of Tamilnadu and Puducherry (BCTNP), Advocates Relief Fund, Indian Bank, SB.A/c. No.6873278505, IFSC Code. No.IDIB000M157" 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.30,000/- (Rupees Thirty Thousand Only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of "The Bar Council of Tamilnadu and Puducherry (BCTNP), Advocates Relief Fund, Indian Bank, SB.A/c. No.6873278505, IFSC Code. No.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 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 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 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 every Monday and Friday at 10.30 a.m. 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.

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 12.08.2020.

-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,
NO.II, PONNERI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE STATE REP BY ITS ,
THE INSPECTOR OF POLICE,
SHOLAVARAM POLICE STATION,
THIRUVALLUR DISTRICT

4 BAR COUNCIL OF TAMIL NADU AND PUDUCHERRY (BCTNP)
ADVOCATES RELIEF FUND,
ACCOUNT NO:6873278505,
INDIAN BANK, MADRAS HIGH COURT
IFSC Code. No.IDIB000M157

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

CRL OP.10786/2020

Date :21/07/2020

RD 03/08/2020