

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.10976 of 2020

Sekar @ Settu

... Petitioner

Vs.

State rep by

The Inspector of Police,
Melpatti Police Station,
Vellore District.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of arrest in
Crime No.93 of 2018 on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

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

O R D E R

(This 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 294(b),
341, 353, 379, 430 and 506(i) IPC in Crime No.93 of 2018, seeks
anticipatory bail.

2. The case of the prosecution is that on 13.06.2018, at about
03.00 a.m., when the defacto complainant and his subordinates were
conducting routine vehicle check up for preventing illegal transport
of sand, the petitioner along with four other persons was found in
possession of sand illegally. On seeing the police, they left the
vehicle and ran away, thereafter, stealthily taken the vehicle.
Hence, the complaint.

3. The learned counsel for the petitioner would submit that the
petitioner is a driver and he has nothing to do with the offences. He
would further submit that the petitioner had earlier approached this
Court and filed a petition in CrI.OP.No.15918 of 2018 and the Hon'ble
Court was pleased to grant the order on 26.06.2018. However, due to
miscommunication between the petitioner and his counsel, the
petitioner was unable to comply with the conditions and thereby the
present petition has been filed.

4. The learned Additional Public Prosecutor submitted that the petitioner along with the other accused had committed illicit sand theft. Therefore, the revenue officials seized the vehicle and the vehicle was in custody. Thereafter, the petitioner along with the other accused have stealthily taken the vehicle and later, the vehicle was seized. 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.20,000/- (Rupees Twenty Thousand only) 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 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.20,000/- (Rupees Twenty Thousand only) as non-refundable deposit through RTGS/NEFT in favour of 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 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/- (Rupees 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 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 on every Monday and Friday at 10.30am, 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.

[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 14.08.2020.

-sd/-

23/07/2020

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,
GUDIYATHAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, सत्यमेव जयते
MELPATTI POLICE STATION,
VELLORE 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.10976/2020

Date :23/07/2020