

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.10827 of 2020

1.Madhan

2.Rajasekar @ Rajasekaran

... petitioners

Vs.

State rep. by its
The Inspector of Police
Sholinghur Police Station,
Vellore District.
Crime No.537 of 2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime.No.537/2020 pending investigation on the file of the respondent police.

For petitioners : Mr.E.KANNADASAN

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

O R D E R

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offences punishable under sections 379, 430 of I.P.C. in Crime No.537 of 2020 on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners had transported half unit of river sand illegally by using Lorry and JCB without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. On instruction, he would further submit that the petitioners are prepared to deposit considerable amount to any charitable organization or association without prejudice to his contention and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of river sand involved is half unit. He further submitted that there is no previous case pending against the petitioners.

5. It is seen that there is no previous case pending against the petitioners and 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.10,000/- (Rupees Ten 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 petitioners with certain conditions.

(a) The petitioners are directed to deposit a sum of Rs.10,000/- (Rupees Ten 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 their arrest or 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 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 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.R.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,
SHOLINGHUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
SHOLINGHUR POLICE STATION,
VELLORE DISTRICT.

4 THE BAR COUNCIL OF TAMILNADU
AND PUDUCHERRY (BCTNP), ADVOCATES RELIEF FUND,
INDIAN BANK, SB.A/C. NO.6873278505,
IFSC CODE.NO.IDIB000M157.

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

CRL OP.10827/2020

Date :21/07/2020

RVR 03/08/2020