

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.10801 of 2020

1.Krishnasamy

2.Pachiyappan

... petitioners/ Accused 1 & 2

Vs.

The State represented by,

The Inspector of Police,

Cheyar Police Station,

Thiruvannamalai District.

Crime No. 1288 of 2020

.... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of their arrest in Crime No.1288 of 2020, pending investigation on the file of the respondent.

For petitioners : Mr.J.Arul Prakasam

For Respondent : Mr.M.Mohamed 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 IPC and Section 21(5) of Mines and Minerals (Development and Regulation) Act, 1957, and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992, in Crime No. 1288 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution is that the petitioners were found in illegal transportation of half unit of sand by using Tractor without valid licence. Hence, the complaint.

3 The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and have been falsely implicated in this case. On instruction, he would further submit that without prejudice to his 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 half 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 petitioners.

5 In order to curb the illegal sand mining activities, this Court is of the opinion that the each petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten 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 their rights and contentions before the trial Court.

6 Merely, because the petitioners deposit 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] Each petitioner is 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 **"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 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 each 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 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 am until further orders.

<https://hcservices.ecourts.gov.in/hcservices/> All 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 are 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 persons thereafter abscond, 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, CHEYYAR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI DISTRICT. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CHEYYAR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 BAR COUNCIL OF TAMIL NADU
AND PUDUCHERRY (BCTNP) ADVOCATES RELIEF FUND,
INDIAN BANK, MADRAS HIGH COURT BRANCH,
A/C.NO.6873278505, IFSC CODE: IDIB000M157

+1CC to M/S. J.ARUL PRAKASAM Advocate on payment of
necessary charges SR NO.NO 25113

CRL OP.10801/2020

Date :21/07/2020

GKS(MK) : 31/07/2020

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