

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2020

CORAM :

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

Cr1.O.P.No.10971 of 2020

Kabil

... petitioner

Vs.

State rep. by its
The Station House Officer,
Naduveerapattu Police Station,
Cuddalore District.
Crime No.89 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 in connection with Crime No.89 of 2020 for the offence punishable under section 379, 430 IPC r/w. Section 21(1) of Mines and Minerals Act pending investigation on the file of the respondent.

For petitioner : Mr.S.C.Vishwanth

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 and section 21(1) of Mines and Minerals (Development and Regulation) Act, in Crime No.89 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was illegally carrying quarter unit of river sand by using Bullock Cart. 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 without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the quantity of sand involved in this case is quarter unit through Bullock Cart. He would further submit that there are one previous cases. Hence he vehemently opposed to grant anticipatory bail to the petitioner.

5. Normally, this Court does not grant anticipatory bail when there is previous case. However, since it is stated by the learned counsel for the petitioner 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 shall deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as non refundable deposit to the "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 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 "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 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 the 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 Friday at 10.30 am 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 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.

Post the matter on 13.08.2020 'for reporting compliance'.

-sd/-

24/07/2020

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.I, CUDDALORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE STATION HOUSE OFFICER,
NADUVEERAPATTU POLICE STATION,
CUDDALORE DISTRICT.

4 BAR COUNCIL OF TN & PUDUCHERRY (BCTNP)
ADVOCATES RELIEF FUND, INDIAN BANK, MADRAS
HIGH COURT BRANCH, A/C.NO.6873278505, IFSC
CODE: IDIB000M157

CC to S.C.VISHWANTH Advocate on payment of necessary charges

CRL OP.10971/2020

Date :24/07/2020

RVR 07/08/2020