

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2020

CORAM :

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

CrI.O.P.No.11091 of 2020

1.S.Vijayakumar

2.R.Thandavamoorthi

...Petitioners/A1 and A2

Vs.

The State Represented by,
The Sub Inspector of Police,
Chengam Police Station,
Chengam Town,
Tiruvannamalai District.
(Crime No.517 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on anticipatory bail in the event of their arrest in Crime No.517 of 2020 on the file of respondent Police.

For Petitioners : Mr.M.Manoj

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 apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 379, 430 IPC r/w. 21(5) Tamil Nadu Mines and Minerals Act 1957 in Crime No.517 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioners have transported half unit of river sand through Tractor and Tipper without obtaining proper license. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are an innocent person and has 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 and Tipper without proper licence. 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 petitioners 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, 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 petitioners 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 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 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"** 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 petitioners 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 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 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 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 for "reporting compliance" on 18.08.2020.

-sd/-

27/07/2020

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, CHENGAM,
THIRUVANNAMALAI DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
CHENGAM POLICE STATION, CHENGAM TOWN,
THIRUVANNAMALAI DISTRICT.

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

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

CRL OP.11091/2020

Date : 27/07/2020