

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2020

CORAM :

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

Crl.O.P.No.11026 of 2020

S.Sekar

... petitioner

Vs.

State rep. by its

The Inspector of Police,

Vaipoor Police Station,

Crime No.369 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 by the respondent police in Crime No.369 of 2020 on the file of the respondent police.

For petitioner : Mr.L.S.M.Hasan Fizal

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 IPC r/w. section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.369 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner had transported 1 unit of sand through Tractor without obtaining proper license. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and 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 anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner was transporting one 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 petitioner.

5. 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 a 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 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 Monday and 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/Judge/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.

9. For reporting compliance, post on 13.08.2020.

-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,
TIRUVARUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VAIPOOR POLICE STATION.

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

+1CC to M/S. L.S.M.HASAN FIZAL Advocate on payment of
necessary charges SR NO.5773

CRL OP.11026/2020

Date :24/07/2020

MK:29/07/2020