

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2020

CORAM :

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

Crl.O.P.No.10968 of 2020

1. Kamalavalli Ramasamy,
W/o. Ramasany

2. Vijay,
S/o. Selvam

... Petitioners

Vs.

The State Represented by,
The Inspector of Police,
Vaitheeswaran Kovil Police Station,
Nagapattinam.
(Crime No.574 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.574 of 2020 on the file of respondent/the Inspector of Police, Vaitheeswaran Kovil Police Station, Nagapattinam.

For Petitioner : Mr. D. Saikumaran

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 offences punishable under Sections 379 and 430 of IPC read with Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.574 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioners had transported 3 units of sand through Lorry without obtaining proper license. 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. He further submitted that the first petitioner is a lady and senior citizen and the second petitioner is her employee. 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 3 units of sand through Tractor without obtaining proper license. 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 first petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) and the second petitioner shall deposit a sum of Rs.20,000/- (Rupees Twenty 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 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] The first petitioners is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) and the second petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty 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 separate 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 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 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 for "reporting compliance" on 13.08.2020.

-sd/-

23/07/2020

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,
SIRKALI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VAITHEESWARAN KOVIL POLICE STATION,
NAGAPATTINAM.

4 BAR COUNCIL OF TAMIL NADU AND PUDUCHERRY (BCTNP)
ADVOCATES RELIEF FUND,
ACCOUNT NO:6873278505,
INDIAN BANK, MADRAS HIGH COURT
IFSC Code - IDIB000M157

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

CRL OP.10968/2020

Date :23/07/2020

RD 03/08/2020