

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.11116 of 2020

Arul

... Petitioner

Vs.

The State, rep .by
Station House Officer,
Kullanchavadi Police Station,
Cuddalore District,
(Crime No. 420 of 2020).

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of arrest in
Crime No.420 of 2020 on the file of the respondent police.

For Petitioner : M/s. B. Gopalakrishnan
P.Divya
A.Velmurugan
S.Sundaresan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the
respondent police for the offences punishable under Sections 379 &
430 IPC r/w 21 (1) of Mines and Minerals (Development & Regulations
Act, 1957) in Crime No.420 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had
illegally transported 1/4 unit of sand in a Bullock Cart, without
any permit or valid licence and it was seized by the respondent
police.

3. The learned counsel for the petitioner would submit that the
petitioner is innocent and he did not commit any offence as alleged
by the prosecution 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. Hence, he prays for grant of
anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the quantity of sand involved in this case is 1/4 unit. Hence he vehemently opposed to grant anticipatory bail to the petitioner.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred 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 petitioner has deposited 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.7,500/- (Rupees Seven Thousand Five Hundred only) as non-refundable deposit through RTGS/NEFT in favour of 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 petitioner is directed to be released on bail in the event of his arrest or 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/- (Rupees Ten thousand only) with two sureties each for the likesum 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 an 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 on every Monday and Friday at 10.30am, 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 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 19.08.2020.

-sd/-

29/07/2020

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 DISTRICT CUM JUDICIAL
MAGISTRATE, KURINJIPADI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 STATION HOUSE OFFICER,
KULLANCHAVADI 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 M/S B.GOPALAKRISHNAN Advocate on payment of necessary
charges Sr.5807

CRL OP.11116/2020

Date :29/07/2020

RVR 04/08/2020