

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.11101 of 2020

1.Settu M/A 43 years,

S/o.Marimuthu,

Kalluralkadu, Pakkanadu Village,

Edappadi Taluk, Salem District.

2.Sekar M/A 50 years

S/o.Rajendran,

Vennanampatty, Sellavadi Post,

Mettur Taluk, Salem District. Petitioners/Accused Nos.1 & 2

Vs.

The State represented by,

The Inspector of Police,

Nangavalli Police Station,

Salem District.

(Crime No.402 of 2020)

.... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in Crime No. 402 of 2020 on the file of the respondent.

For Petitioners : Mr.M.Subash

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 alleged offences punishable under Sections 379 of IPC and 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.402 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution is that the petitioners were found in illegal transportation of red sand by using Tipper Lorry without valid licence. Hence, the complaint.

<https://hcservices.ecourts.gov.in/hcservices/> The learned counsel appearing for the petitioners would

submit that the petitioners are innocent persons and have 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 one unit of sand through Lorry. 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 each petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as non refundable deposit to the "Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Indian Bank, Madras High Court Branch, A/c.No.6873278505, 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 petitioners are 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 "Bar Council of Tamil Nadu and Puducherry (BCTNP) Advocates Relief Fund, Indian Bank, Madras High Court Branch, A/c.No.6873278505, 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 each petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees 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 am 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 abscond, 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 17.08.2020.

-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,
NO.I,METTUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
NANGAVALLI POLICE STATION,
SALEM DISTRICT.

4 BAR COUNSEL OF TAMILNADU AND
PUDUCHERRY[BCTNP]ADVOCATES RELIEF FUND,
ACCOUNT NO: 6873278505, INDIAN BANK,
MADRAS HIGH COURT BRANCH WITH
IFSC CODE -IDIB000M157

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

CRL OP.11101/2020

Date :27/07/2020

RD 07/08/2020

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