

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.11212 of 2020

1. Vijayakumar
2. Vinoth
3. Vijayendhiran
4. Vijipal

... Petitioners

Vs.

The Sub Inspector of Police,
Mangalamedu Police Station,
Perambalur District,
Crime No. 1046 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their
arrest in Crime No.1046 of 2020 on the file of the respondent police.

For Petitioners : M/s.M.R.Elavarasan

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

O R D E R

(This 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 294(b),
342, 353, 506(2), 379 and 511 IPC in Crime No.1046 of 2020, seek
anticipatory bail.

2. The case of the prosecution is that the petitioners indulged
in illicit quarrying activities and when it was questioned by the
defacto complainant, the petitioners abused him and prevented him
from discharging his duties and took away the sand in two wheelers.

3. The learned counsel for the petitioner would submit that the
sand is for their own use but the defacto complainant prevented them
and further submitted that the petitioners are innocent and that they
have been falsely implicated in this case. On instruction, he would
further submit that without prejudice to their defence, the
petitioners are prepared to deposit considerable amount to any
charitable organization. Hence, he prays for grant of anticipatory
bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the petitioners indulged in illicit quarrying activities and when it was questioned by the defacto complainant, the petitioners abused him and prevented him from discharging his duties. He would further submit that A1 has one previous case pending against him in Cr.No.143/2020. As far as the other petitioners are concerned, there are no previous cases pending. Hence he vehemently opposed to grant anticipatory bail to the petitioners.

5. Normally, this Court does not grant anticipatory bail when there is previous case. However, since it is stated by the learned counsel for the petitioners that the petitioners are prepared to deposit some amount to any charitable organization and in order to curb the illegal sand mining activities, this Court is of the opinion that the first petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) and the petitioners 2 to 4 are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each 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 have deposited 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 petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) and the petitioners 2 to 4 are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each 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 petitioners are directed to be released on bail in the event of their arrest or 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/- (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 petitioners 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 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 on every Monday and Friday at 10.30am, 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 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 18.08.2020.

-sd/-
28/07/2020

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,
VEPPANTHATTAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUB INSPECTOR OF POLICE
MANGALAMEDU POLICE STATION
PERAMBALUR DISTRICT.

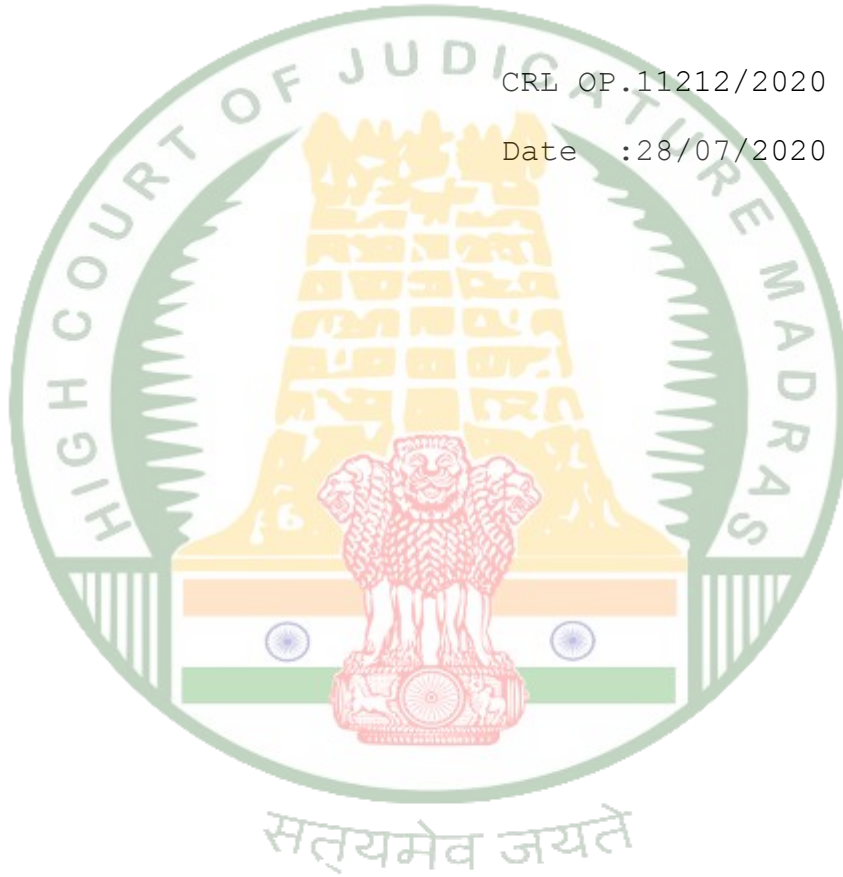
4 THE BAR COUNCIL OF TAMIL NADU
AND PUDUCHERRY (BCTNP) ADVOCATES RELIEF FUND,
ACCOUNT NO: 6873278505,
INDIAN BANK, MADRAS HIGH COURT BRANCH
WITH IFSC CODE - IDIB000M157

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

CRL OP.11212/2020

Date :28/07/2020

cs 12/08/2020



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