

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No.11697 of 2020

1.D.Dhandapani

2.D.Arumugam

... Petitioners/Accused

Vs.

The State represented by,
The Inspector of Police,
Muthandikuppam Police Station,
Cuddalore District.
(Crime No. 81 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. 81 of 2020, pending investigation on the file of the respondent police.

For Petitioners : Mr.K.Panjamurthy

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, 430 of IPC read with Section 21(1) of Mines & Minerals (Development and Regulation) Act, 1957, in Crime No. 81 of 2020, on the file of the respondent police, seek anticipatory bail.

2 It is the case of the prosecution that the petitioners have transported sand illegally by using Bullock Cart without any valid licence. 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. On instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioners are prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

4 The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of river sand involved is $\frac{1}{4}$ unit. He further submitted that there is no previous pending against the petitioners. However, he opposed to grant anticipatory bail to the petitioners.

5 In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioners offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners may be directed to donate/pay a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) to Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. 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 petitioners are directed to pay a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) either through RTGS/NEFT or in cash in favour of Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. 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 payment of the above amount and on further condition that each petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for the 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 organization.

[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 daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for the interrogation.

[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 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 **28.08.2020**.

-sd/-
07/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

WEB COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.I,
PANRUTI

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR,
HIGH COURT,MADRAS.

4 THE INSPECTOR OF POLICE,
MUTHANDIKUPPAM POLICE STATION,
CUDDALORE DISTRICT

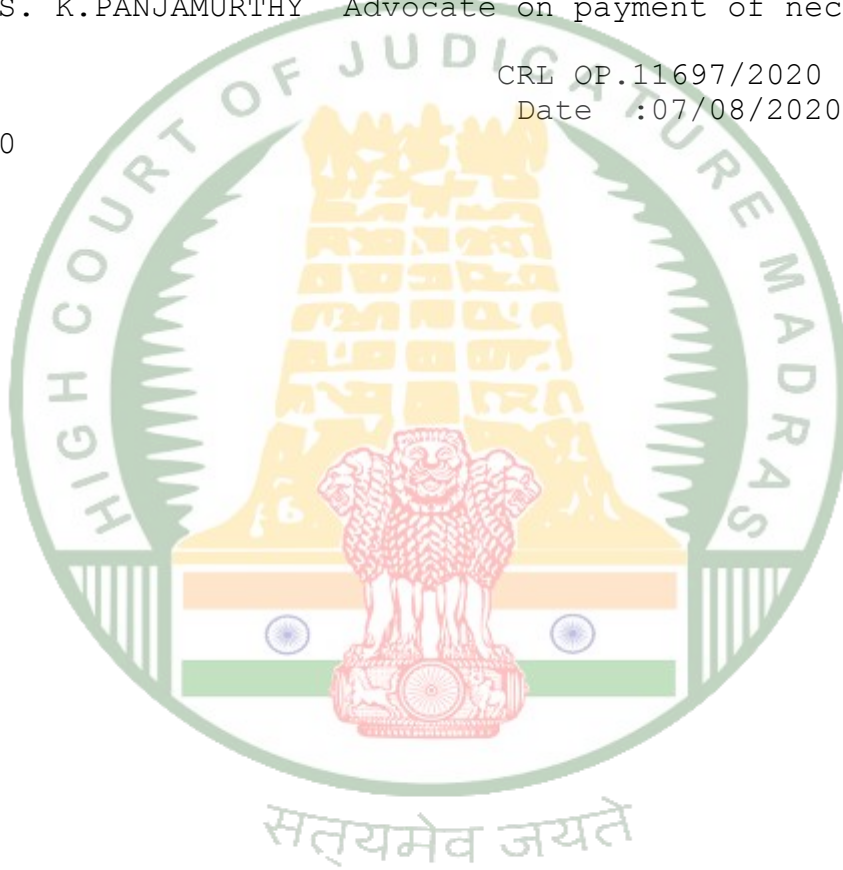
5 THE TAMIL NADU ADVOCATE CLERK
ASSOCIATION,HIGH COURT MADRAS, INDIAN BANK
HIGH COURT BRANCH,A/C NO.484026006;
IFSC NO.IDIB000M157

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

CRL OP.11697/2020

Date :07/08/2020

GKS:19/08/2020



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