

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.11430 of 2020

Murugesan

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Thittagudi Police Station,
Cuddalore District, Cuddalore
Crime No.744 of 2020.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioner on bail in the event of arrest in Connection with the Crime No.744 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.E.Balamurugan

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

ORDER

(This case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 379 of IPC r/w 21(1) of Mines and Minerals (Development & Regulation)Act 1957 in Crime No.744 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner had transported two bags of sand illegally by using his two wheeler without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and 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 or Association. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for

the respondent submitted that the quantity of sand involved is two

bags. He further submitted that there is no previous case pending against the petitioner.

5. It is seen that there is no previous case pending against the petitioner and 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.5,000/- (Rupees five thousand only) as non refundable deposit to **'The Chief Minister's Public Relief Fund', Indian Overseas Bank, SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172** without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposits 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.5,000/- (Rupees five Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of **'The Chief Minister's Public Relief Fund', Indian Overseas Bank, SB.A/c. No.117201000000070, IFSC Code. No.IOBA0001172** 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/- (Ten thousand only) each 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 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 daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for the interrogation.**

[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.

<https://hcservices.ecourts.gov.in/hcservices/> [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 **25.08.2020**.

-sd/-
03/08/2020

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 MUNSIF CUM JUDICIAL MAGISTARATE,
THITTAGUDI.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THITTAGUDI POLICE STATION,
CUDDALORE.

5 THE CHIEF MINISTER PUBLIC RELIEF FUND,
INDIAN OVERSEAS BANK, SB.A/C.NO.117201000000070, IFSC CODE.
NO.IOBA0001172

CC to E.BALAMURUGAN Advocate on payment of necessary charges

CRL OP.11430/2020

Date :03/08/2020