

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.08.2020

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.11861 of 2020

1. Charless Boopalan
2. Kandasamy
3. Edumbaiyan

... Petitioners

Vs.

The State Represented by,
The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.
Crime No.718 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest concerned in Crime No.718 of 2020 pending on the file of the respondent.

For Petitioners : Mr.J.Jawahar

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 apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 430 of IPC, 1860 read with Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957, in Crime No.718 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioners have excavated the sand from the river for the purpose of transportation. The first petitioner has transported 4 units of river sand and the second petitioner has transported 2 units of river sand and the third petitioner has transported 1 unit of river sand illegally without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners is an 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 the first petitioner had 4 units and the second petitioner had 2 units and the third petitioner had 1 unit. He further submitted that the petitioners have no previous case pending against them.

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 first petitioner may be directed to donate/pay a sum of Rs.60,000/- (Rupees Sixty Thousand only) and the second petitioner may be directed to donate/pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) and the third petitioner may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to **"The Madras High Court Advocate Clerks Welfare Association, Indian Bank, High Court Branch, S.B A/C No.484077244 with IFSC Code - IDIB000M157"** without prejudice to his 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 may be directed to donate/pay a sum of Rs.60,000/- (Rupees Sixty Thousand only) and the second petitioner may be directed to donate/pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) and the third petitioner may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to **"The Madras High Court Advocate Clerks Welfare Association, Indian Bank, High Court Branch, S.B A/C No.484077244 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 payment of the above amount and on further condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (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 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 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 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 **28.08.2020.**

-sd/-

06/08/2020

WEB COPY

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,
NAGAPPATTINAM DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPPATTINAM DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS.

4 INSPECTOR OF POLICE,
VELANKANNI POLICE STATION,
NAGAPPATTINAM DISTRICT

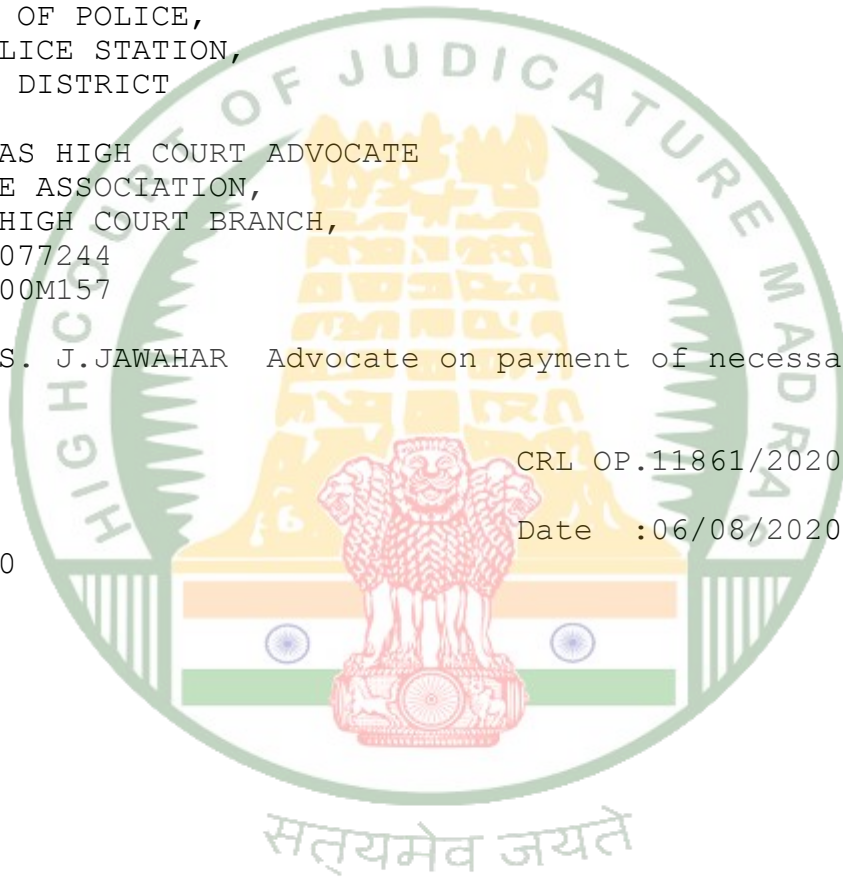
5 THE MADRAS HIGH COURT ADVOCATE
CLERKS WELFARE ASSOCIATION,
INDIAN BANK, HIGH COURT BRANCH,
SB.A/C NO.484077244
IFSC NO.IDIB000M157

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

CRL OP.11861/2020

Date :06/08/2020

GKS:20/08/2020



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