

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.12037 of 2020

1.Chellamuthukumar
2.Madhavan

... Petitioners

Vs.

The State Represented by,
Inspector of Police,
Thittacherry Police Station,
Nagapattinam Distirct.
(Crime No.361 of 2020)

... Respondent

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.361 of 2020 on the file of the respondent police.

For Petitioners : Mr.Hasan Mohammed Jinnah

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

ORDER

(This 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 and 430 of I.P.C., r/w 21(1) of Mines & Minerals (Development & Regulations) Act**, in Crime No.361 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioners had transported 1/2 unit of sand through Tractor without obtaining proper license. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that this is the second anticipatory bail petition. This Court in Crl.O.P.No.7949 of 2020 dated 20.06.2020, has granted anticipatory bail to the petitioners

with conditions and due to the lockdown, the petitioners were unable to comply with the conditions within a specific period. Therefore, the first anticipatory bail granted by this Court in CrI.O.P.No.7949 of 2020 dated 28.05.2020 was automatically cancelled. He further submitted 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 submitted that the quantity of river sand involved is 1/2 unit. He would further submit that there is no previous case. However, he opposed for the grant of 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 first petitioner may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) and second petitioner may be directed to donate/pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), 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 petitioners deposit 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 petitioners with certain conditions :

[a] the first petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) and second petitioner is directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), 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 petitioners are directed to be released on bail in the event of their arrest or on their appearance and on production of proof of payments of the above amount and on further condition that each of the petitioner shall execute a bond for a sum of Rs.10,000/- (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 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 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 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 03.09.2020.

-sd/-
12/08/2020

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 JUDICIAL MAGISTRATE-II,
NAGAPATTINAM, NAGAPATTINAM DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THITTACHERRY POLICE STATION,
NAGAPATTINAM DISTRICT.

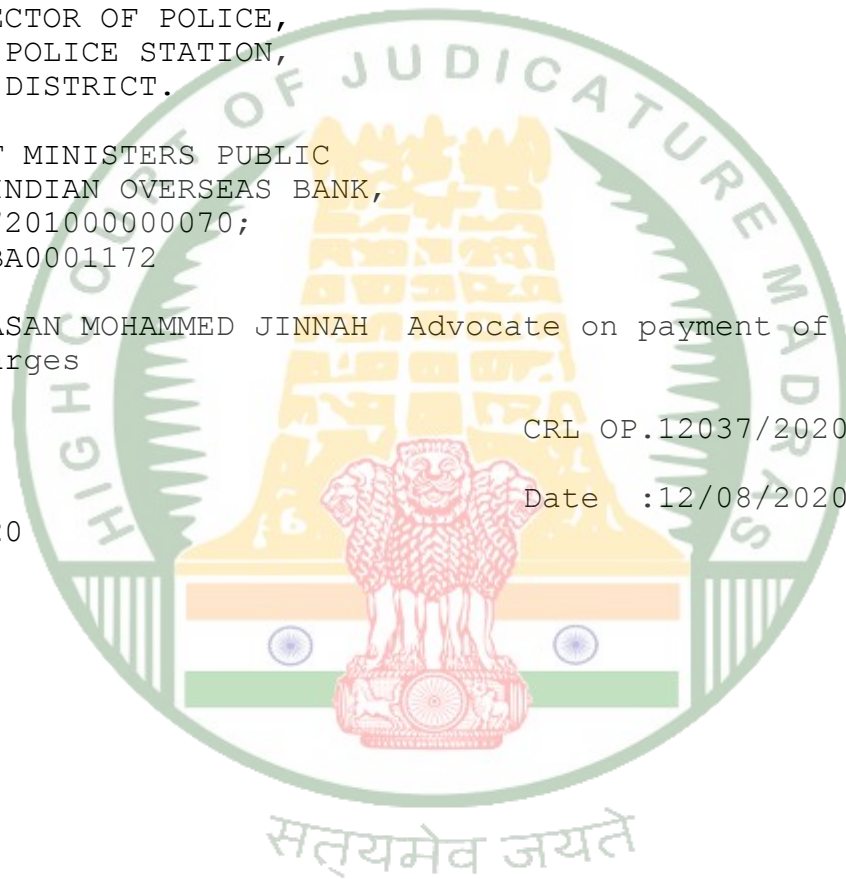
5 THE CHIEF MINISTERS PUBLIC
RELIEF FUND, INDIAN OVERSEAS BANK,
SB.A/C.NO.117201000000070;
IFSC CODE.IOBA0001172

CC to HASAN MOHAMMED JINNAH Advocate on payment of
necessary charges

CRL OP.12037/2020

Date :12/08/2020

GKS:21/08/2020



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