

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12192 of 2020

1.Natarajan

2.Dinesh

... Petitioners/Accused 1 & 2

Vs.

The State represented by,
The Inspector of Police,
Poraiyar Police station,
Nagapattinam District.

(Crime No. 394 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 connection with Crime No. 394 of 2020, pending on the file of the respondent.

For Petitioners : Mr.V.Sakkarapani

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends 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. 394 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution is that the petitioners were found in illegal possession of one unit of savudu sand by using Tractor without valid licence. Hence the complaint.

3 The learned counsel appearing for the petitioners would submit that this is the second anticipatory bail application and the earlier the petitioners were granted

anticipatory bail by this Court in Crl.O.P.No.9931 of 2020 on 02.07.2020 with a condition to the petitioners "to deposit a sum of Rs.15,000/- to the credit of Arignar Anna Memorial Cancer Hospital and Research Institute, Kancheepuran, within a period of fifteen days from the date on which the order copy made ready". Since the petitioners were unable to get the account number, they were unable to deposit the money within time and thereby the earlier order has been lapsed. He would further submit that the petitioners are prepared to comply with the condition. Hence, he prays to grant anticipatory bail to the petitioners.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that petitioners were found in illegal possession of one unit of savudu sand and that earlier the petitioners were granted anticipatory bail in Crl.O.P.No.9931 of 2020, dated 02.07.2020 with a condition to deposit Rs.15,000/- to the credit of Arignar Anna Memorial Cancer Hospital and Research Institute, Kancheepuran but the petitioners have not deposited the said amount. Hence, 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 each petitioner may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to Seva Chakkara Samajam, 89/41, Sami Pillai Street, Choolai, Chennai - 112, Canara Bank, Vepery Branch, A/c.No. 0943101024681, IFSC Code No.CNRB00000943, 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) Each petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) either through RTGS/NEFT or in cash in favour of Seva Chakkara Samajam, 89/41, Sami Pillai Street, Choolai, Chennai - 112, Canara Bank, Vepery Branch, A/C.No.0943101024681, IFSC Code No.CNRB00000943, 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 **03.09.2020**.

-sd/-

14/08/2020

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,
THARANGAMBADI

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE ARIGNAR ANNA MEMORIAL CANCER
HOSPITAL AND RESEARCH INSTITUTE,
KANCHEEPURAM

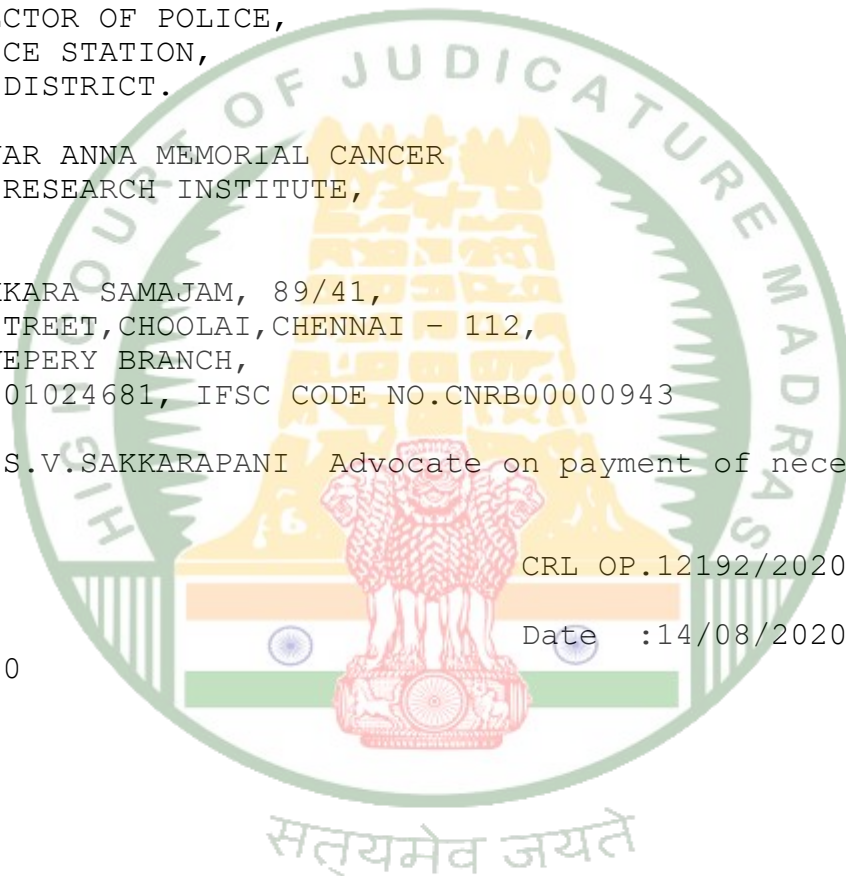
6 SEVA CHAKKARA SAMAJAM, 89/41,
SAMI PILLAI STREET, CHOLAI, CHENNAI - 112,
CANARA BANK, VEPERY BRANCH,
A/C.NO. 0943101024681, IFSC CODE NO.CNRB00000943

CC to M/S.V.SAKKARAPANI Advocate on payment of necessary
charges

CRL OP.12192/2020

Date :14/08/2020

GKS:26/08/2020



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