

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2020

CORAM

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

Crl.O.P.No.12065 of 2020

1. V.Paneer Selvam
2. Chinnapaiyan @ Chinnathambi ... Petitioners
Vs.

State Rep. by
The Sub Inspector of Police,
Pudupalayam Police Station,
tiruvannmalai District.
Crime No.1052 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 in connection with Crime No.1052 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.O.Sudarvanan

For Respondent : Mr.K.Prabakar
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 and 430 of IPC r/w 21(5) of Mines and Minerals Act,1957 and TN Public Property (Prevention of Damage and Loss) Act, 1992, in Crime No.1052 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 1 unit of river sand illegally by using Mahindra Bolero 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 their defence and prayed for grant of anticipatory bail.

the respondent submitted that the quantity of river sand involved is 1 unit. He further submitted that there is no previous case as against the petitioners.

5. Normally, this Court does not grant anticipatory bail when there is previous case. It is seen that there is no previous case pending against them and in order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the each of the petitioners may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen 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 petitioner has deposited 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) Each of the petitioners are directed to pay a sum of Rs.15,000/- 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 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 petition for 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 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 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 07.09.2020.

-sd/-
13/08/2020

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, CHENGAM

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
PUDUPALAYAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.

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

CC to M/S.O.SUDARVANAN Advocate on payment of necessary charges

CRL OP.12065/2020

Date :13/08/2020