



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2020

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12138 of 2020

1.Vinoth @ Vinothkumar ... Petitioners/Accused Nos.1, 2 & 3
2.Mani
3.Maha @ Mahalingam

Vs.

The State represented by, ... Respondent/Complainant
The Sub-Inspector of Police,
Chetpet Police Station,
Thiruvannamalai District.
(Crime No. 2242 of 2020)

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. 2242 of 2020, pending investigation on the file of the respondent police.

For Petitioners : Mr.B.S.Manikandan

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

ORDER

(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, 430 of IPC read with Section 21(5) of Mines & Minerals (Development and Regulation) Act, 1957 and Section 3 of TNPPDL Act, in Crime No. 2242 of 2020, on the file of the respondent police, seek anticipatory bail.

2 It is the case of the prosecution that the petitioners 1 & 2 had transported one and half unit of river sand illegally by using SWARAJ MAZDA without any valid licence and the third petitioner had illegally transported 50 kgs of river sand by using Honda Shine without any valid licence. Hence, the complaint.



3 The learned counsel appearing for the petitioners would submit that the petitioners are an innocent person 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 petitioners 1 & 2 were found in illegal possession of one and half unit of sand and the third petitioner was found in illegal possession of two bags (50 kgs) of sand. He further submitted that there are four previous cases pending against the petitioners 1 & 2 and that there is no previous pending against the third petitioner. However, he opposed to grant anticipatory bail to the petitioners.

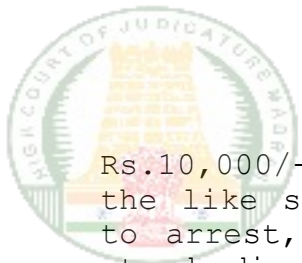
5 Taking into consideration the facts and submissions and considering the previous antecedents, this Court is not inclined to grant anticipatory bail to the petitioners 1 & 2. Hence, the petition for anticipatory bail stands dismissed in respect of the petitioners 1 & 2.

6 However, in order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the third petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the third petitioner may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the Satkaarya Trust, 10/46, Periyar Street, Thenpalani Nagar, Kolathur, Chennai 600099, ICICI Bank, Kilpauk Branch, A/C.No. 027801002323, IFSC Code: ICIC0000278, without prejudice to his rights and contentions before the trial Court.

6 Merely, because the third 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 third petitioner with certain conditions.

(a) The third 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 the Satkaarya Trust, 10/46, Periyar Street, Thenpalani Nagar, Kolathur, Chennai 600099, ICICI Bank, Kilpauk Branch, A/C.No. 027801002323, IFSC Code: ICIC0000278, within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the third petitioner is directed to be released on bail in the event of his arrest or his appearance and on production of proof of payment of the above amount and on further condition that the third 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 third petitioner 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 third 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 third 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 third petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the third petitioner 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 third petitioner in accordance with law as if the conditions have been imposed and the third 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 **03.09.2020**.

-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, POLUR,
TIRUVANNAMALAI DISTRICT.



2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
CHETPET POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE FAVOUR OF THE SATKAARYA
TRUST, 10/46, PERIYAR STREET, THENPALANI
NAGAR, KOLATHUR, CHENNAI 600099, ICICI BANK,
KILPAUK BRANCH, A/C.NO. 027801002323, IFSC
CODE: ICIC0000278,

+1 CC to M/S.B.S.MANIKANDAN Advocate on payment of necessary
charges SR.NO.5921

CRL OP.12138/2020

Date :13/08/2020

TA-21/08/2020