

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.12515 of 2020

1.Bharathiraja

2.Robert

... Petitioners/Accused Nos.1 & 2

Vs.

The State represented by,
The Inspector of Police,
Perugavazhanthan Police Station,
Thiruvarur District.

Crime No.784 of 2020

.... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners bail in the event of their arrest in Crime No.784 of 2020, on the file of the Inspector of Police, Perugavazhanthan Police Station, Thiruvarur District.

For Petitioners : Mr.Swami Subramanian

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 Section 379 of IPC read with Section 21(1) of Mines & Minerals (Development and Regulation) Act,1957, in Crime No.784 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 one sand illegally by using Tractor 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 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 one unit. He further submitted that there is one previous case pending against both the petitioners. 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 each petitioner may be directed to donate/pay a sum of Rs.30,000/- (Rupees Thirty 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.30,000/- (Rupees Thirty 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 every Monday and Friday at 10.30 a.m., 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 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 08.09.2020.

-sd/-

18/08/2020

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 NO.II,
MANNARGUDI, THIRUVARUR DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERUGAVAZHANTHAN POLICE STATION,
THIRUVARUR DISTRICT

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

CC to M/S. SWAMI SUBRAMANIAN Advocate on payment of necessary charges

CRL OP.12515/2020

Date :18/08/2020