

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2020

CORAM

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

Crl.O.P.No.12729 of 2020

1. Nakeeran
2. Vijay

... Petitioners

Vs.

State Rep. By
The Inspector of Police,
Poraiyar Police Station,
Nagapattinam District.
Crime No.654 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.654 of 2020 on the file of the respondent police.

For Petitioners: Mr.B.Sundarapandiyar

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 of IPC r/w 21(1) of Mines and Minerals(Development & Regulation) Act,1957 in Crime No.654 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 savudu 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 their defence and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of Savudu sand involved is 1 unit. He further submitted that there is no previous case as against the first petitioner and the second petitioner has involved one previous case in connection with Cr.No.43 of 2020.

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 the first petitioner and the second petitioner has involved in one previous case 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 first petitioner may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) and the second petitioner may be directed to donate/pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) to **"The Missionaries of Charity, Nirmala Shishu Bhavan, No.26/79, West Madha Church Road, Royapuram, Chennai - 600 013 bearing A/c. No.0042053000009382, South Indian Bank Limited, George Town Branch, IFSC Code No.SIBL0000042"** 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) The first petitioner is directed to pay a sum of Rs.15,000/- and the second petitioner is directed to pay a sum of Rs.30,000/- either through RTGS/NEFT or in cash in favour of **"The Missionaries of Charity, Nirmala Shishu Bhavan, No.26/79, West Madha Church Road, Royapuram, Chennai - 600 013 bearing A/c. No.0042053000009382, South Indian Bank Limited, George Town Branch, IFSC Code No.SIBL0000042"** 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 15.09.2020.

-sd/-
20/08/2020

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THARANGAMPADI.

2 THE CHIEF JUDICIAL MAGISTRATE,
NAGAPATTINAM [FORINFORMATION] .

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

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

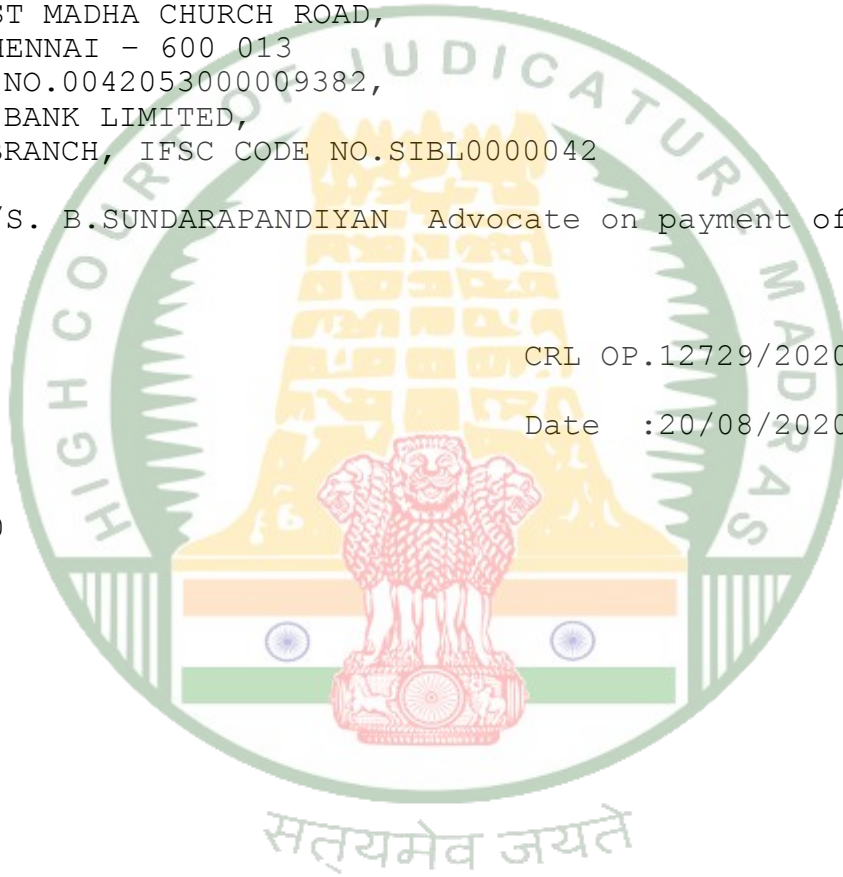
5 THE MISSIONARIES OF CHARITY,
NIRMALA SHISHU BHAVAN,
NO.26/79, WEST MADHA CHURCH ROAD,
ROYAPURAM, CHENNAI - 600 013
BEARING A/C. NO.0042053000009382,
SOUTH INDIAN BANK LIMITED,
GEORGE TOWN BRANCH, IFSC CODE NO.SIBL0000042

CC to M/S. B.SUNDARAPANDIYAN Advocate on payment of necessary
charges

CRL OP.12729/2020

Date :20/08/2020

MN-04/09/2020



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