IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2020

CORAM :

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

Crl.O.P.No.12796 of 2020

Sekar ... Petitioner

Vs.

State rep. by
The Inspector of Police,
Chetpet Police Station,
Thiruvannamalai District.
(Crime No.2482 of 2020) ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in connection with Crime No.2482 of 2020 on the file of the respondent police.

For Petitioner : Mr. V. Bhagiradhan

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 I.P.C., r/w 21(5) of Mines and Minerals (Development & Regulation) Act, 1957 and Section 3 of Tamil Nadu Public Property (Prevention of Damages and Loss)Act, 1992 in Crime No.2482 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had illegally transported quarter unit of river sand through bullock cart without obtaining proper license. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On instruction, he would further submit that taking into consideration the present Covid pandemic situation the petitioner is 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.

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4. The learned Additional Public Prosecutor submitted that the quantity of river sand involved is quarter unit. He would further submit that there is no previous case. However, he opposed for the grant of anticipatory bail to the petitioner.

5. 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 petitioner may be directed to donate/pay a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred only), to Claretian Life Animation Project Trust, A/c.No.1190155000096499, IFSC No.KVBL0001190, The Karur Vysya Bank Limited, Tambaram Branch, Chennai without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposits 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 petitioner with certain conditions:

[a] The petitioner is directed to pay a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) jointly, either through RTGS/NEFT or in cash in favour of Claretian Life Animation Project Trust, A/c.No.1190155000096499, IFSC No.KVBL0001190, The Karur Vysya Bank Limited, Tambaram Branch, Chennai, within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of their arrest or on their appearance and on production of proof of payment of the above amount and on further condition that each of the petitioner shall execute a bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for a like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stands 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 crime number.

[b] the 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 petitioner shall report before the respondent police every Monday and Friday at 10.30 am until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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[e] the 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 petitioners in accordance with law as if the conditions have been imposed and the petitioner is 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.

-sd/-
24/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
POLUR, THIRUVANNAMALAI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CHETPET POLICE STATION,
THIRUVANNAMALAI DISTRICT.

4 CLARETIAN LIFE ANIMATION PROJECT TRUST,
A/C.NO.1190155000096499,
IFSC NO.KVBL0001190,
THE KARUR VYSYA BANK LIMITED,
TAMBARAM BRANCH, CHENNAI.

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

CRL OP.12796/2020

Date :24/08/2020

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