

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.13033 of 2020

1.Karthi

2.Surender

3.Sivakumar

... Petitioners/Accused 1, 2 & 3

Vs.

The Inspector of Police,
Kariyapattinam Police Station,
Nagapattinam District.
(Crime No.658 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the police in Crime No. 658 of 2020, on the file of the Inspector of Police, Kariyapattinam Police Station, Nagapattinam District.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : Mr.M.Mohamed Riyaz

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 of IPC read with Section 21(1) of Mines and Mineral (Development & Regulation) Act 1957, in Crime No. 658 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 It is the case of the prosecution that the petitioners have transported three and half units of sand illegally by using Tipper Lorry 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 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 sand involved is three and half units. He further submitted that there is no previous case pending against the petitioners. However, 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 the petitioners may be directed to donate/pay a sum of Rs.60,000/- (Rupees Sixty Thousand only) to Claretian Life Animation Project Trust, the Karur Vysya Bank Limited, Tambaram Branch, Chennai, A/c.No.1190155000096499, IFSC-KVBL0001190, 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) The petitioners are directed to pay a sum of Rs.60,000/- (Rupees Sixty Thousand only) either through RTGS/NEFT or in cash in favour of Claretian Life Animation Project Trust, the Karur Vysya Bank Limited, Tambaram Branch, Chennai, A/c.No.1190155000096499, IFSC-KVBL0001190, 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.

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 **15.09.2020**.

-sd/-

26/08/2020

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.I, NAGAPATTINAM

2 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KARIYAPATTINAM POLICE STATION, NAGAPATTINAM DISTRICT.

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

CC to M/S P.MUTHAMIZHSELVAKUMAR Advocate on payment of necessary charges

CRL OP.13033/2020

Date :26/08/2020