

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2020

CORAM :

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

Crl.O.P.No.13025 of 2020

1.K.Sambanthamoorthy
2.S.Gunasundhari
3.R.Suthanthirapandiyan
4.K.Manthiriyappan
5.K.Manikandan

... Petitioners

Vs.

The State rep.by
The Inspector of Police,
Avinashi Police Station,
Tiruppur District.
(Crime No.1789 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code praying to release the petitioners on bail in the even of their arrest in Crime No.1789 of 2020 for the alleged offences under Section 379 of IPC on the file of the respondent police.

For Petitioners : Mr.S.Vinoth Kumar

For Respondent : Mr.M.Mohammed Riyaz
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 Section 379 IPC, in Crime No.1789 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported 6 units of gravel sand without proper permission. 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, they 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 first petitioner is the owner of two lorries and he illegally transported 4 units of gravel sand and the second petitioner is the owner of one lorry and illegally transported 2 units of gravel sand and the third to fifth petitioners are the drivers of three lorries. Hence, he vehemently opposed to grant anticipatory bail to the petitioners. He would further submit that the petitioners have no previous cases.

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 first petitioner may be directed to donate/pay a sum of Rs.60,000/- (Rupees Sixty Thousand only), second petitioner a sum of Rs.30,000/- (Rupees Thirty Thousand only) and third to fifth petitioners a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each to the **Claretian Life Animation Project Trust, A/c.No.1190155000096499, IFSC- KVBL0001190, The Karur Vysya Bank Ltd., Tambaram Branch, Chennai,** 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 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.60,000/- (Rupees Sixty Thousand only), second petitioner a sum of Rs.30,000/- (Rupees Thirty Thousand only) and third to fifth petitioners a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each, either through RTGS/NEFT or in cash in favour of **"Claretian Life Animation Project Trust, A/c.No.1190155000096499, IFSC- KVBL0001190, The Karur Vysya Bank Ltd., Tambaram Branch, Chennai,"** 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 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 a 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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

9. Post the matter on **17.09.2020** 'for reporting compliance'.

-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,
AVINASHI.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUPPUR [FORINFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
AVINASHI POLICE STATION,
TIRUPPUR DISTRICT.

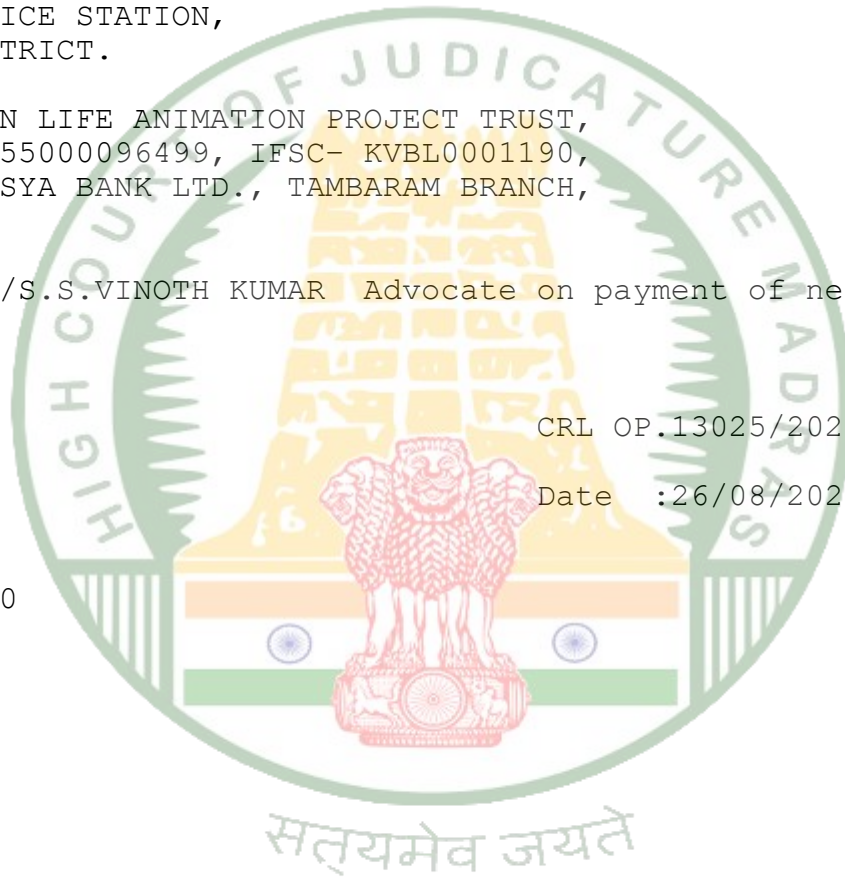
5 CLARETIAN LIFE ANIMATION PROJECT TRUST,
A/C.NO.1190155000096499, IFSC- KVBL0001190,
THE KARUR VYSYA BANK LTD., TAMBARAM BRANCH,
CHENNAI

CC to M/S.S.VINOTH KUMAR Advocate on payment of necessary
charges

CRL OP.13025/2020

Date :26/08/2020

MN-07/09/2020



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