

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.13003 of 2020

Sivakadatcham ... Petitioners/2nd Accused
Vs.

The Inspector of Police,
Kariyapattinam Police Station,
Nagapattinam District.

In Crime No. 643 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 in Crime No. 643 of 2020, on the file of the respondent - the Inspector of Police, Kariyapattinam Police Station, Nagapattinam District.

For Petitioner : Mr.N.Palanivel

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 Section 379 of IPC read with Section 21(1) of Mines and Mineral (Development & Regulation) Act 1957, in Crime No. 643 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 It is the case of the prosecution that the petitioner has transported one unit of sand illegally by using Swaraj 735 FE Tractor (Blue Colour Engine) with Green Colour Tipper without any valid licence. 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 is not aware of any person who is liable to be convicted of anticipatory bail.

4 The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner was found in illegal possession of one unit of sand. He further submitted that there is no previous case pending against the petitioner. However, he opposed to grant 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.15,000/- (Rupees Fifteen 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 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 petitioner with certain conditions.

(a) The petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen 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 petitioner is directed to be released on bail in the event of his arrest or his appearance and on production of proof of payment of the above amount and on further condition that the 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 petitioner 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 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 a.m. until further orders.

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

[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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, VEDARANYAM

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 N.PALANIVEL Advocate on payment of necessary charges

CRL OP.13003/2020

Date :26/08/2020

GKS:03/09/2020

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