

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.Nos.13250 of 2020

1.Lakshmana Gounder,

S/o. Mariappa Gounder,
3/42, Chinnapommansalai,
Pungamuthur (Post),
Udumalpet Taluk,
Tiruppur District - 642 207.

2.Ramalingam,

S/o. Palaniappa Gounder,
3/43, Chinnapommansalai,
Pungamuthur (Post),
Udumalpet Taluk,
Tiruppur District - 642 207.

... Petitioners

Vs.

State represented by
The Inspector of Police,
Dhali Police Station,
Tiruppur.

(Crime No.43/2019)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of arrest in Crime No.43/2019 pending on the file of the respondent police.

For Petitioners : Mr. S.Gunalan

For Respondent : Mr. M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the offences publishable under Section 3(1) of TNPPDL Act in Cr. No.43 of 2019, on the file of the respondent police, seek anticipatory bail.

is that the petitioners have illegally drawn water from the PAP canal by damaging the canal to a depth of three metres. Hence the complaint.

3. Learned counsel for the petitioners would submit that the petitioners are innocent and are falsely implicated in this case. He further submitted that there was breach in the canal and wrong allegations are made against the petitioners. 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 his defence and prayed for grant of anticipatory bail.

4. Learned Additional Public Prosecutor would submit that the petitioners have drawn water illegally from the PAP canal by damaging the canal to a depth of three meters. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. 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 petitioners may be directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) jointly, to the credit of Crime No.43 of 2019, pending on the file of the respondent.

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 petitioners are directed to pay a sum of Rs.10,000/- jointly, either through RTGS/NEFT or in cash to the credit of Crime No.43 of 2019 pending on the file of the respondent, 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 their appearance and on production of proof of payment of the above amount and on further condition that the petitioners shall execute 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 petitioner 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, every Monday 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 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.

-sd/-

31/08/2020

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.II, UDUMALPET

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
DHALI POLICE STATION,
TIRUPPUR.

+1 CC to M/S. S.GUNALAN Advocate on payment of necessary charges sr 6087

CRL OP.13250/2020

Date :31/08/2020

RD 10/09/2020