

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 13350 of 2020

D.Pandiyan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Walajapet Police Station,
Vellore District.
(Crime No.756/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No. 756 of 2020, on the file of the respondent police.

For Petitioner : Mr. G.Saravanan

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 hand of the respondent for the offence punishable under Section 379 and 430 IPC in Crime No.756 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the de facto complainant is that while the petitioner and other were digging their land they have also encroached the promboke land. Hence the complaint.

3. Learned counsel for the petitioner would submit that the petitioner with another person were excavating his own land and at that time, due to previous enmity between the petitioner and de facto complainant, a false complaint has been given by de facto complainant as if the petitioner had encroached promboke land. He would further submit that the petitioner is innocent and has been falsely implicated in this case. Hence, he seeks for grant of anticipatory bail to the petitioner.

4. Learned Additional Public Prosecutor would submit that the petitioner and other while excavating their land by JCB had also encroached promboke land. He would further submit that there are no previous cases against the petitioner. However, he opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and submission made by the counsel, and the fact that there are no previous cases against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner on the following conditions:

[a]. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.II, Walajapet, Vellore District, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two surety, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate 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 everyday 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

01/09/2020

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

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, WALAJAPET, VELLORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

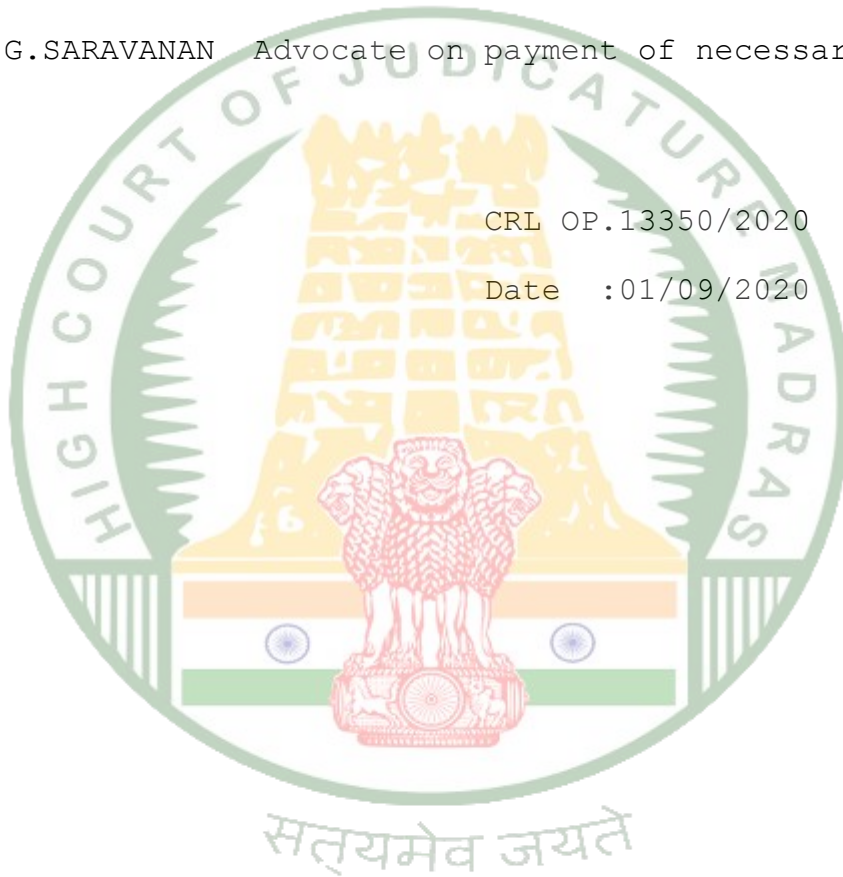
3 THE INSPECTOR OF POLICE,
WALAJAPET POLICE STATION,
VELLORE DISTRICT.

CC to M/S.G.SARAVANAN Advocate on payment of necessary charges

CRL OP.13350/2020

Date :01/09/2020

RVR 22/09/2020



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