

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.17172 of 2020

V.K.Velmurugan

... Petitioner/Accused

Vs.

The State represented by,
The Station House Officer,
Chidambaram Taluk Police Station,
Cuddalore District.

[Crime No. 567 of 2020]

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest by the respondent police in Crime No. 567 of 2020, on the file of the respondent police.

For Petitioner : Mr.G.Pugazhenthir

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 offence punishable under Sections 430, 379 of IPC r/w. 21(1) of Mines and Minerals Act, in Crime No. 567 of 2020, on the file of the respondent, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant viz., T.Ponmagaram, Sub-Inspector of Police, Chidambaram Taluk Police is that on 16.09.2020 at about 18.00 hours while he was conducting vehicle checkup at Kannangudi

Bye-pass junction, he had seen a tractor bearing registration No. TN-82 X 6751 coming from the South and going towards North along with the Trailer bearing registration No. TN51 K 7497 and when the vehicle was checked, they found that it was containing one unit of river sand and when the driver was asked to furnish the documents, he has informed that he is not having any documents or permission to transport the sand and further the driver had informed that the owner of the tractor viz., Velmurugan used to mine sand from Northern bank of Kattukudalur and as per the owner's instruction, he had come to stock the sand. Since, the driver was not having any licence or permit to transport sand, he was arrested at the place and the sand was seized.

3 The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the tractor and he was given permit to transport sand vide transit permit No. 492407 on 16.09.2020 and the permit was valid from 3.11 p.m., to 06.11 p.m., on the same day and whereas, the vehicle was intercepted at 18 hours even prior to the lapse of time of permit and thereby, he would seek for anticipatory bail.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was in the habit of using single transit permit and transport river sand illegally by making several trips and that on 16.09.2020, when the tractor of the accused was intercepted, the driver was not in possession of valid transit permit to transport the sand and thereby, the driver was arrested on the spot and sand was seized. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5 This court is of the opinion that the offenders despite several orders passed by various benches of this court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals. These cases come within the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly.

6 This Court finds that the discretionary power has been consciously and continuously misused by the offenders in an organised manner and this Court is of the firm opinion that the discretionary powers cannot be extended to persons indulging in illegal sand mining, smuggling and theft of sand and minerals.

7 In view of the order passed by this Court in Crl. OP No.13334 of 2020 etc. Batch, dated 03.09.2020, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

-sd/-
03/11/2020

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,
CHIDAMBARAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE STATION HOUSE OFFICER,
CHIDAMBARAM TALUK POLICE STATION,
CUDDALORE DISTRICT

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

CRL OP.17172/2020

Date :03/11/2020

RVR(GKS) :23/11/2020

सत्यमेव जयते

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