



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.02.2021

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.1344 of 2021

C.Manoj Kumar

... Petitioner

Versus

State rep.by
The Inspector of Police,
Vellakovil Police Station,
Tiruppur District.
(Crime No.2083 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge petitioner on bail in the event of his arrest in connection with Crime No.2083 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest for the alleged offence under Section 379 of IPC r/w Section 21(1)(a) of the Tamil Nadu Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.2083 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant Sivakami, Thasildhar, Kangeyam Taluk, Tiruppur District, is that on 28.11.2020 on information from the Village Assistant of Kangeyam, Vattamalai, that some persons were indulging in illicit mining, the defacto complainant had visited the farm land belong to one Stalin and Prakash. At that time, they had seen a lorry driven by one Karthik bearing Regn.No.TN37 BR 0006 loaded with nine tones of rough stones excavated from the well without any valid licence or permission. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner is the owner of the lorry. The lorry had been taken by the driver of the



lorry in the guise of shifting debris from a well Whereas, without his knowledge, the driver has transported the rough stones excavated from the well. He would submit that this is the second application for anticipatory bail and the earlier application in Crl.O.P.No. 19167 of 2020 was dismissed by this Court on 08.12.2020 based on the orders passed in Crl.O.P.No.13334 of 2020 etc. batch dated 03.09.202. Thereafter, the order was clarified and the Hon'ble Apex Court had directed that the case of the petitioner has to be decided on case to case basis. Thereby, the present application for anticipatory bail has been filed. He would submit that the petitioner was not present at the scene of occurrence and his driver had done it without his knowledge. He would further submit that the driver has been arrested and subsequently, he has been enlarged on bail by the orders of the Principal Sessions Judge, Tiruppur, vide C.M.P.No.1410 of 2020 dated 10.12.2020. On instructions, he would further submit that the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence. He would also submit that the lorry has also been seized and thereby, the petitioner is financially affected very much. Hence, he prays for grant of anticipatory bail.

4.The learned Additional Public Prosecutor submitted that the petitioner is the owner of the lorry bearing Regn.No.TN37 BR 0006. On 28.11.2020 at about 00.15 hours, when the defacto complainant had conducted inspection based on an information, the lorry of the petitioner was found to be loaded with nine tones of rough stones excavated from the well belong to one Stalin and Prakash. Since, the driver of the vehicle was not having any valid permission to transport the stones, he was arrested and subsequently, he was enlarged on bail and that the said lorry has been seized and it is in the custody of the respondent. Hence he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. This is the second application for anticipatory bail. This Court on the earlier occasion in Crl.O.P.No.19167 of 2020 dated 08.12.2020, following the orders passed by this Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing 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 and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier application. Subsequently, the order of this Court in Crl.O.P.No. 13334 of 2020 and Batch etc. Dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the Court should



take into consideration the role assigned to the person on case to case basis.

6. Accordingly, this Court takes into consideration, the role assigned to the petitioner in the present case. In this case on hand, it is seen that the petitioner is the owner of the lorry. The alleged contraband is rough stones which have been taken while excavating well belong to one Stalin and Prakash and not from the Government land. Further, it is not a river sand and thereby, the petitioner has not caused any damage to the environment. Further, the driver of the lorry who had taken the vehicle of the petitioner in the guise of removing debris, has been arrested and he has been released on bail and that the lorry is still in the custody of the respondent.

7. In order to curb the illegal 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.25,000/- (Rupees Twenty Five Thousand only) each, to "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856," without prejudice to his rights and contentions before the trial Court.

8. Taking into consideration the above facts and circumstances of the case and the voluntary submission made by the petitioner, this court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

9. Accordingly, the petitioner is directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, to "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856". On such payment and production proof, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Kangeyam, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each 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:

[a] 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.

[b] the petitioner 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.

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

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[d] the petitioner shall not abscond either during investigation or trial.

[e] 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].

[f] If the accused thereafter abscond/s, a fresh FIR can be registered under Section 229A IPC.

[g] Merely, because the petitioner deposit 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.

-sd/-

02/02/2021

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

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

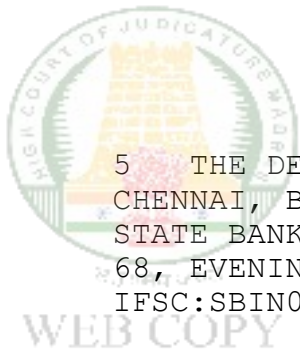
TO

1 THE JUDICIAL MAGISTRATE,
KANGEYAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUPPUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

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



5 THE DEAN, RAJIV GANDHI GOVERNMENT GENERAL HOSPITAL,
CHENNAI, BEARING A/C.NO.10273425961,
STATE BANK OF INDIA, PARK TOWN (CHENNAI),
68, EVENING BAZAAR ROAD, CHENNAI,
IFSC:SBIN0001856

CC to M/S.R.NALLIYAPPAN Advocate on payment of necessary
charges

CRL OP.1344/2021

Date :02/02/2021

MN-09/02/2021