

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P.No.272 of 2021

1. Duraisamy
2. Indirani

... Petitioners

Vs.

State represented by
Inspector of Police,
Chennimalai Police Station,
Erode District.
(Crime No.457 of 2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code praying to enlarge the petitioners on bail in the event of their arrest in Crime No.457 of 2020 pending investigation on the file of the Respondent.

For Petitioners : Mr.M.Guruprasad

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners are A1 & A2. Apprehending arrest at the hands of the respondent police for the alleged offence under Section 379 of IPC and Section 21(1) of Mines & Minerals (Development & Regulation) Act, 1957 in Crime No.457 of 2020 on the file of the respondent police, the petitioners seek anticipatory bail.

2. The case of the prosecution is that on a special check near Chennimalai Bus Stand, they intercepted a tipper lorry bearing register number TN 34 S 1678 driven by A1 and on inspection, it was found that A1 was taking six units of Quartz mine without any valid authorisation in the lorry owned by A2. Hence, the respondent police registered a case against the petitioners.

3. The learned counsel appearing for the petitioners submitted that the petitioners did not indulged in any offence and hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that A1 has transported the Quartz mine unauthorizedly based on the instructions given by A2.

5. The learned counsel for the petitioners, on instructions, submitted that the petitioners are prepared to deposit a sum of Rs.25,000/- without prejudice to their defence.

6. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions :

(a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before **the learned Judicial Magistrate, Perundurai**, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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 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 petitioners are directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Tamil Nadu Advocate Clerks Association, Indian Bank, High Court Branch, (A/c.No.484026006, IFSC No.IDIB 000 M 157), within a period of two weeks from the date of receipt of a copy of this order without prejudice to his rights and contentions before the trial Court ;

(d) The petitioners shall appear before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation.

(e) The petitioners shall not tamper with evidence or witness either during investigation or trial.

(f) The petitioners shall not abscond either during investigation or trial.

(g) 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 petitioners 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]**.

(h) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
18/01/2021

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,
PERUNDURAI.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CHENNIMALAI POLICE STATION,
ERODE DISTRICT.

5 THE CREDIT OF TAMIL NADU ADVOCATE CLERKS
ASSOCIATION, INDIAN BANK, HIGH COURT BRANCH,
(A/C.NO.484026006, IFSC NO.IDIB 000 M 157)

+1 CC to M/S.M.GURUPRASAD Advocate on payment of necessary charges SR.NO.523

CRL OP.272/2021

Date :18/01/2021

TA-25/01/2021

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