

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2021

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.Nos.343 and 390 of 2021

M.Sathiyaseelan @ Anandan

...Petitioner in  
Crl.O.P.No.343 of 2021

M.Jayaseelan

...Petitioner in  
Crl.O.P.No.390 of 2021

Vs.

State represented by  
The Inspector of Police,  
Thalambur Police Station,  
Kancheepuram District.  
(Cr.No.2969 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in Crime No.2969 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.B.Janakiram

For Respondent : Mr.C.Iyyappa Raj  
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 offence punishable under Sections 379, 430 of I.P.C in Crime No.2969 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Dinakaran who is the Village Administrative Officer, Kilakottaiyur Village, Vandalur Taluk, Chengalpattu District, is that on 26.09.2012 at about 8 p.m., he along with the Village Assistant was on routine rounds. At that time, he had seen a lorry bearing Registration No.TN-22-AZ-4804 coming on the way. When it was stopped, the driver had got down from the lorry and ran away from the scene of occurrence and on search of the vehicle, it was found that lake sand was illegally transported in the lorry following which, the lorry was handed over to the police. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the petitioner in Crl.O.P.No.343 of 2021 is the driver of the vehicle and

the petitioner in Crl.O.P.No.390 of 2021 is the owner of the vehicle. He would submit that the owner of the vehicle was granted permit by the Assistant Director of Mines and Minerals Department, Kancheepuram, Vide receipt No.2652 dated 21.09.2020 to excavate and transport two units of sand in the lorry bearing Registration No.TN-22-AZ-4804 and it is valid till 28.09.2020. He would submit that on 26.09.2020, while the driver was transporting the sand, the vehicle was intercepted by the Village Administrative Officer and the driver fearing that some action may be taken, had left the vehicle and ran away from the scene of occurrence. He would submit that the petitioners were having valid permit for transporting sand. He would submit that this the second application for anticipatory bail and on the date of hearing of earlier applications, the petitioners were not having the details and thereby, they were unable to produce the same before this Court and therefore, this Court by order dated 09.11.2020 vide Crl.O.P.Nos.17591 and 17588 of 2020, following the orders passed in Crl.O.P.No.13334 of 2020 and connected batch dated 03.09.2020 had dismissed the applications. He would submit that if the case of the petitioners had been taken on case to case basis, this Court would have granted anticipatory bail to the petitioners. He would submit that the alleged sand is not a river sand and that it is a Gravel sand which had been taken while deepening the lake. He would further submit that there is no previous case against the petitioners and on instructions, he would further submit that the petitioners are prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to their defence and prayed for grant of anticipatory bail.

4. The learned Government Advocate (Crl. Side) would submit that admittedly, the petitioners have been issued permit to transport sand. But on the date of occurrence, when the vehicle was intercepted, the driver of the vehicle without producing the permit had ran away from the scene of occurrence and thereby, the defacto complainant had seized the vehicle along with sand and had handed over it to the respondent based on which, the case was registered. He would submit that the investigation is pending.

5. This Court on the earlier occasion in Crl.O.P.Nos.17591 and 17588 of 2020 dated 09.11.2020, 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 applications 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 applications. 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 role assigned to the person would have to be considered on case to case basis.

6. Accordingly, this Court takes into consideration, the role assigned to the petitioners in the present case. In this case on hand, it is seen that the petitioners have been issued permit to transport sand. However, at the time of interception, the driver of the vehicle without producing the permit had run away from the scene of occurrence and thereby, the defacto complainant had seized the vehicle along with sand and handed over it to the respondent.

7. In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioners 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 donate/pay a sum of Rs.20,000/- (Rupees Twenty 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 their 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 petitioners, this court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

9. Accordingly, the petitioners are directed to pay a sum of Rs.20,000/- (Rupees Twenty 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 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 on which the order copy is made ready, before the learned Judicial Magistrate-I, Chengalpattu, on condition that the petitioners shall execute a separate 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 petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation.

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

[d] the petitioners 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 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].

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

[g] Merely, because the petitioners deposit the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

-sd/-

20/01/2021

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,  
NO.I, CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE  
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR  
HIGH COURT,  
MADRAS.

4 INSPECTOR OF POLICE,  
THALAMBUR POLICE STATION,  
KANCHEEPURAM DISTRICT.

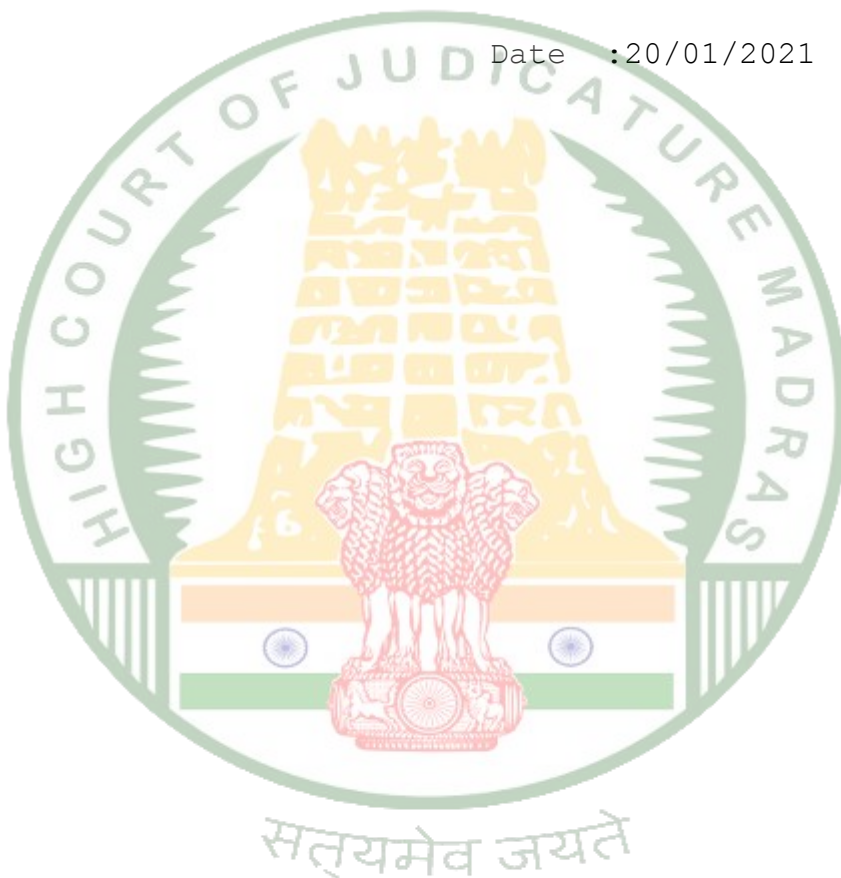
5 THE DEAN, RAJIV GANDHI GOVERNMENT  
GENERAL HOSPITAL, CHENNAI,  
BEARING A/C.NO.10273425961,  
STATE BANK OF INDIA, PARK TOWN (CHENNAI),  
68, EVENING BAZAAR ROAD, CHENNAI, IFSC:SBIN0001856

+6 CC to M/S.B.JANAKIRAM Advocate on payment of necessary  
charges Sr.Nos.643 & 644

CRL.O.P.Nos.343 and 390 of 2021

Date :20/01/2021

RVR 29/01/2021



WEB COPY