

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.02.2021

CORAM

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

CRL.O.P.No.1970 of 2021

Manivannan

... Petitioner

Vs.

State represented by
The Inspector Of Police,
Banavaram Police Station,
Banavaram District.
(Cr.No.365 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioner on bail in the event of his arrest in Crime No.365 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.M.Hussaini Basha

For Respondent : Mr.C.Iyyappa Raj
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 in Crime No.365 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Rajamuthu, Special Sub Inspector of Police is that on 20.08.2020 while he was on usual routine check up, he received an information that some persons were illegally mining river sand by using JCB and Tractor and that he had gone to place of occurrence. On seeing the defacto complainant, the driver of the JCB and the driver of the Tractor bearing Regn.No.TN73 6870 had ran away from the place of occurrence leaving the vehicles at the spot and that the JCB and the Tractor were seized along with one unit of lake sand which was loaded in the vehicle. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner is the driver of the JCB and that he had acted upon the instructions of his owner. He would submit that the petitioner was under the impression that his owner had obtained license to take sand and transport the same. He would further submit that this is the third application for anticipatory bail and the first application for anticipatory bail in Crl.O.P.No.16758 of 2020 was dismissed on 28.10.2020 following the orders passed by this Court in Crl.O.P.No.13334 of 2020 etc. batch dated 03.09.2020 and the second application in Crl.O.P.No.19357 of 2020 was dismissed as withdrawn on 10.12.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner along with other accused without obtaining any permission from the Government had illegally dug the land and transported one unit of lake sand. He would submit that if the petitioner's owner had obtained license to mine river sand, he would have surely produced the same. He would submit that it is a case of commercial exploitation where the accused by using JCB, has dug the land and spoiled the the environment and caused damages to the ecology. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. This Court on the earlier occasion in Crl.O.P.No.16758 of 2020 dated 28.10.2020, 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 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 petitioner in the present case. In this case on hand, it is seen that the petitioner is the driver of the JCB. He along with other accused by using JCB have dug the land and thereby, spoiled the environment and caused damages to the ecology. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

-sd/-
10/02/2021

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

2 THE INSPECTOR OF POLICE,
BANAVARAM POLICE STATION,
BANAVARAM, VELLORE.

+1CC to M/S.M.HUSSAINI BASHA Advocate on payment of
necessary charges SR NO.1418

CRL OP.1970/2021

Date :10/02/2021

MK:17/02/2021

WEB COPY