

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

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

Crl.O.P.No.447 of 2021

K.Sakthivel

... Petitioner

Versus

Inspector of Police,
Thiruchengodu Rural Police Station,
Namakkal District.

... 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.1174 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.K.Sudalai Kannu

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 Section 379 of IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.1174 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant Sasi Kumar, Assistant Director, AD Mines, Salem is that on 18.10.2020 while he was conducting surprise raid, he had seen a Tipper lorry bearing Regn.No.N23 CB 7193 transporting 4 units of Gravel sand without any valid 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 further submit that this is the second application for anticipatory bail and the earlier application in Crl.O.P.No.19299 of 2020 was dismissed by this Court placing reliance on the Judgment of this Court in Crl.O.P.No.13334 of 2020 Batch etc. Dated 03.09.2020 stating that the petitioner had caused damage to the environment. Subsequent to the order passed by this Court, the Hon'ble Supreme Court has clarified stating that the case of the accused has to be considered on case to case basis and thereby, the present petition has been filed.

Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is the owner cum driver of the vehicle bearing Regn.No.N23 CB 7193 and he had transported 4 units of Gravel Sand without obtaining permission from the Government and thereby degraded the environment and caused damages to the ecology. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioners.

5. This Court on the earlier occasion in Crl.O.P.No.19299 of 2020 dated 18.12.2020, 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, the role assigned to the petitioner is that he is the owner cum driver of the tipper lorry bearing Regn.No.N23 CB 7193 and that he has transported four units of Gravel Sand without any valid permit. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition stands dismissed.

-sd/-

11/02/2021

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 INSPECTOR OF POLICE,
THIRUCHENGODE RURAL POLICE STATION,
NAMAKKAL DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.K.SUDALAI KANNU Advocate on payment of necessary
charges

CRL OP.447/2021

Date :11/02/2021

EP-23/02/2021



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