

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.201 of 2021

[*]1.Hariharan @ Hari

2.Balakrishnan

... Petitioners

Vs.

State represented by
The Inspector of Police,
Muthupettai Police Station,
Thiruvavur District.
(Crime No.2541 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on in the event of his arrest or on his appearance in Crime No.2541 of 2020, on the file of the respondent police.

For Petitioner : Mr.T.Muruganantham
[IN CRL.OP.NO.201 OF 2021]

For Petitioner : Mr.M.JAIKUMAR
[IN CRL.MP.NO.1816 OF 2021
IN CRL.OP.NO.201 OF 2021]

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

O R D E R

(The case has been heard through video conference)

The petitioner/A3 and A4, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 379 and 430 of IPC, r/w Section 21(1) of the Tamilnadu Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.2541 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners have transported half unit of river sand illegally by using a vehicle, bearing Registration No.TN-99J Bolero Pickup, without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. On instruction, he would further submit that the petitioners are prepared to deposit some considerable amount to any charitable organization or association without prejudice to his contention and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of river sand involved is half unit. He further submitted that there are two previous cases pending against the petitioners.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) as non refundable deposit to 'The Tamil Nadu Advocate Clerk Association, Indian Bank High Court Branch', A/C.No.484026006, IFSC Code. No. IDIB000M157 without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner has deposited 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.

7. Considering the above facts and circumstances of the case and the allegation is only made against the main accused (A4)/2nd petitioner herein, therefore, this Court is not inclined to grant anticipatory bail to the 2nd petitioner. Accordingly, this Criminal Original Petition stands dismissed as against the 2nd petitioner.

8. However, considering the fact that the second petitioner is the owner and that the allegation is made against the second petitioner/A4 and this petition is dismissed insofar as the second petitioner is concerned. Considering the fact and circumstances of the case, the first petitioner is only being a driver, this Court is inclined to grant anticipatory bail to the 1st petitioner with certain conditions.

(a) The 1st petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of 'The Tamil Nadu Advocate Clerk Association, Indian Bank High Court Branch', A/C.No.484026006, IFSC Code. No. IDIB000M157, and on such payment and production of proof of deposit of the above amount, he shall 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 made ready, before the learned Judicial Magistrate, Thiruthuraipoondi, on condition that the 1st petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for the like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that:

[b] the 1st petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the 1st petitioner 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 the interrogation.

[d] the 1st petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the 1st petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the 1st petitioner in accordance with law as if the conditions have been imposed and the 1st 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9. 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

सत्यमेव जयते
TRUE COPY

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

[*]Amended as per order of this Court dated 19/02/2021 made in CRL.MP.NO.1816 OF 2021 IN CRL.OP.NO.201 OF 2021

TO

1 THE JUDICIAL MAGISTRATE,
THIRUTHURAIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
THIRUVARUR DISTRICT

5 THE TAMIL NADU ADVOCATE CLERK ASSOCIATION,
INDIAN BANK HIGH COURT BRANCH,
A/C.NO.484026006, IFSC CODE. NO. IDIB000M157

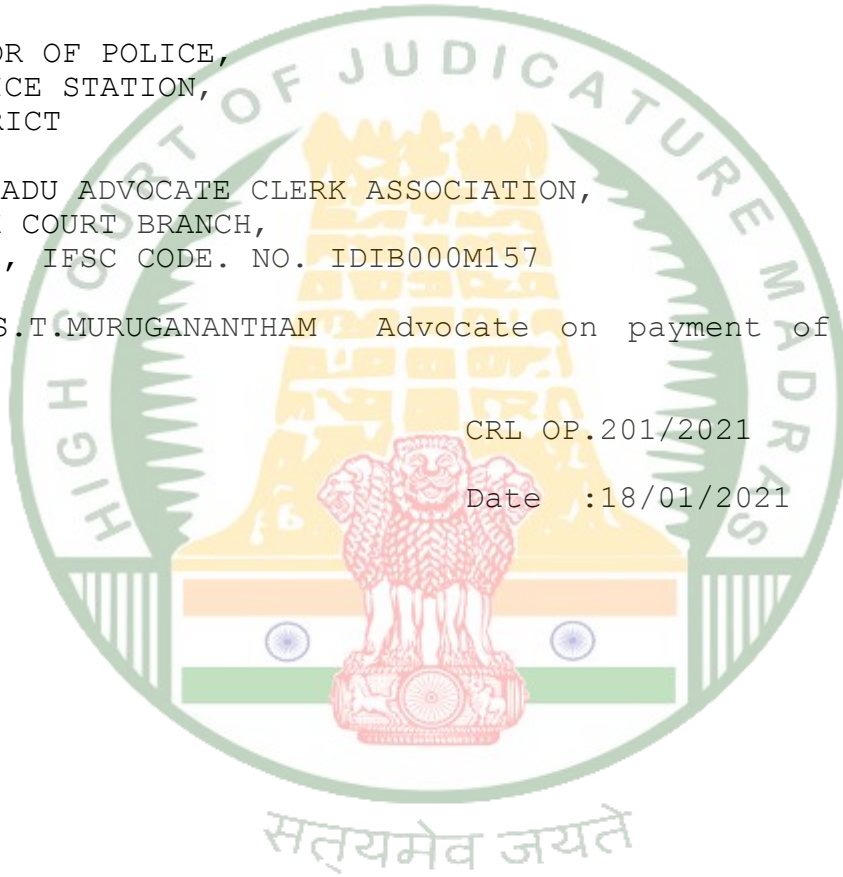
CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary
charges

CRL OP.201/2021

Date :18/01/2021

MK:01/02/2021

MK:02/03/2021



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