

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2021

CORAM:

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.599 of 2021

AROKKIYADOSS

... Petitioner

Vs.

State rep by

The Inspector of Police,
Vadaponparappi Police Station,
Villupuram District.
(Cr.No.1149 of 2020)

... Respondent

PRAYER: This Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest in connection with Crime No.1149 of 2020 on the file of the respondent police, pending investigation.

For Petitioner : Mr.S.Ramachandran

For Respondent : Mr.Charles Prem Kumar
Government Advocate (Crl.Side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 379 of I.P.C. in Crime No.1149 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner herein is the owner of the MAHINDRA 575 DI tractor and trailer. The respondent police intercepted the vehicle while illicitly transporting 1 ½ units of river sand. One Sathyamoorthi son of Marimuthu (A-1) was caught by the police, whereas, another person travelling along with him in the vehicle fled away.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that earlier, the anticipatory bail petition moved before this Court. This Court by following the judgment passed in Bala @ Balasubramani versus Inspector of Police, Thakkolam Police Station, Vellore District reported in 2020 2 Law Weekly Crl 528, dismissed the anticipatory bail.

5. Even after three months, the respondent police has not apprehended the petitioner. The second anticipatory bail petition is moved stating that the vehicle was hired by A1 for agricultural purpose, but misused by them by illicitly transporting the river sand. The person, who fled away from the vehicle was intercepted, was not the petitioner.

6. Taking note of the fact that even after three months, the petitioner could not be apprehended by the respondent police and the presence of the petitioner is not necessary for proper investigation, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

[a] Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen days, before the learned Judicial Magistrate, Sankarapuram, on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each, for a like sum to the satisfaction of the respondent police or to the satisfaction of the learned Magistrate concerned, as the case may be.

[b] the petitioner 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.

(c) the petitioner shall appear before the respondent police daily at 10.30 a.m., for a period of 15 days and thereafter as and when required.

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

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

[f] On failure to comply the condition or breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner 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].

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

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

-sd/-

29/01/2021

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,
SANKARAPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VADAPONPARAPPI POLICE STATION,
VILLUPURAM DISTRICT

CC to M/S. S.RAMACHANDRAN Advocate on payment of necessary charges Sr.931

CRL OP.599/2021

सत्यमेव जयते Date :29/01/2021

RVR 02/02/2021

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