

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.395 of 2021

1.B.Kaviyarasan
2.B.Tamilselvan

... Petitioners/Accused 4 & 5

-Vs-

State rep by,
The Inspector of Police,
Walajabad Police Station,
Kancheepuram District.
(Crime No.1766 of 2020)

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the Petitioners on bail in the event of their arrest in Crime No.1766 of 2020 on the file of the respondent police.

For Petitioners : Mr.G.Punniakoti

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(Heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 430, 379 IPC r/w 21(1) Mines and Minerals Act 1957 r/w 3(1) of Tamil Nadu Property (Prevention of Damage & Loss) Act 1992, in Crime No.1766 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The petitioners are ranked as A4 and A5. The case of the prosecution is that the petitioners along with other accused have transported one bag sand by using Two Wheeler, without any valid licence. Hence, a complaint was registered.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. The petitioners never indulged in any such offence as alleged by the prosecution. Hence, he prayed for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners along with other accused have transported one bag sand by using Two Wheeler, without any valid licence. He further submitted that there are no previous cases pending against the petitioners. However, he opposed for grant of anticipatory bail to the petitioners.

5.Heard the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

6.Considering the fact that the entire contraband has already been seized and there is no previous case, I am inclined to grant anticipatory bail to the petitioners with the following conditions:

[a] the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Kancheepuram, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties 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:

[b] the 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 petitioner shall report before the respondent police as and when required.

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

[e] the 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner is 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 abscond, a fresh FIR can be registered under Section 229A IPC.

7.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

TRUE COPY

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

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, KANCHEEPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
WALAJABAD POLICE STATION,
KANCHEEPURAM DISTRICT.

+1 CC to M/S G.PUNNIAKOTI Advocate on payment of necessary charges
SR.No.546

CRL OP.395/2021

Date :18/01/2021

cs 25/01/2021

WEB COPY