

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.459 of 2021

1. R.Suresh

2. R.Jayakumar

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Dusi Police Station,
Thiruvannamalai District.
(Crime No.2440 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.2440 of 2020 pending on the file of the respondent.

For Petitioner : Mr.G.Punniakoti

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

O R D E R

(The case has been heard through video conference)

The petitioners are arrayed as 1st and 2nd accused. They apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 430 and 379 of I.P.C. R/w 21 (5) of Mines and Minerals Act, 1957, in Crime No. 2440 of 2020, on the file of the respondent police, and now, they have filed this petition seeking to grant anticipatory bail.

2. The case of the prosecution is that the petitioners along with other accused said to have transported one load sand without valid license. Hence, the criminal case has been registered against the petitioners.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they are no way connected with the offence. He would submit that the 1st petitioner being the owner of the vehicle and 2nd petitioner being driver of the vehicle, they have been falsely implicated as accused in this case. On instruction, he would further submit that without prejudice to their rights and contentions, they are prepared to deposit/pay some considerable amount to any charitable

organization or association and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is one load. He has further submitted that there is no previous case pending against the petitioners. However, he opposed to grant anticipatory bail to the petitioners.

5. In order to curb the illegal transportation of sand and taking into consideration of the voluntary submission made by the petitioners offering to deposit or to pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners may be directed to deposit/pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioners have 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. Taking note of the facts and circumstances and also considering that there is no previous antecedents against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :-

(a) The petitioners are directed to pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) either through RTGS/NEFT or in cash in favour of Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, within fifteen (15) days from the date of receipt of a copy of this order. On such deposit, the petitioners are ordered to be released on bail in the event of their arrest or their appearance before the learned Judicial Magistrate, Cheyyar, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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, and on further condition that:

[b] the petitioners 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 petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

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

-sd/-
19/01/2021

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,
CHEYYAR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DUSI POLICE STATION,
THIRUVANNAMALAI DISTRICT.

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

+1CC to M/S.G.PUNNIAKOTI Advocate on payment of necessary charges SR NO.545

CRL OP.459/2021

Date :19/01/2021