

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.01.2021

CORAM

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

CrI.O.P.No.765 of 2021

EDURU SURESH

... Petitioner

Vs.

State by
Inspector of Police,
F2- SIPCOT Police Station
Thiruvallur District.
(Cr.No.1771 of 2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.1771 of 2020, on the file of the respondent police.

For Petitioner : Mr.S.Sasikumar

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 Sections 379, 430 IPC, and Section 21(1) of Mines and Minerals (Development & Regulation) Act 1957 in Crime No.1771 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de facto complainant is that the petitioner had illegally transported eight units of river sand without any permission from the Government. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner had not committed any offence as alleged by the prosecution. He would submit that this is the second application for anticipatory bail. He would submit that on the earlier occasion this Court taking into consideration, the order passed in CrI.O.P.No.13334/2020 etc., batch dated 03.09.2020 was pleased to dismiss the petition. Subsequently, the Hon'ble Apex Court has

clarified in SLP (Crl) 6029/2020 dated 11.12.2020 the Hon'ble Supreme Court had not agreed with the broad feet sweep of the observation made by this Court in Paragraph No.27 of the Order in Crl.O.P.No13334/2020 and connected matters decided on 03.09.2020 and had directed that the nature of the allegation against the petitioner has to be taken into consideration and thereby would seek for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would vehemently oppose stating that the petitioner is a resident of Andhra Pradesh had committed theft of eight units of river sand in a lorry bearing Registration No.AP20 TP 9029. He would submit that the petitioner has illegally taken the sand and they have caused damage to the environment.

5. This Court on the earlier occasion in Crl.O.P.No.17102 of 2020 dated 02.11.2020, 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 role assigned to the person would have to be considered 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 on the date of occurrence, the Special Sub-Inspector of Police was conducting regular inspection and he had found the petitioner illegally transporting eight units of river sand in the Lorry and on seeing the Special Sub-Inspector of Police, the petitioner had left the Lorry with the river sand and ran away. This is a case where the petitioner had illegally dug and removed river sand affecting the environment and society at large, therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

-sd/-
22/01/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, GUMMIDIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
F2-SIPCOT POLICE STATION,
THIRUVALLUR DISTRICT.

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

CRL OP.765/2021

Date :22/01/2021

cs 04/02/2021

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