

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.468 of 2021

Siva,

S/o.Chinnasamy

... Petitioner/ Accused No.3

-Vs-

The State rep. by
The Inspector of Police,
Melpatti Police Station,
Vellore District.
(Crime No.85 of 2020)

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of his arrest in Crime No.85 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Thamizhazhagan
For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 379, 430 of IPC and r/w. 21(1) Mines and Minerals Act, in Crime No.85 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that 19.03.2020 the petitioner had illegally transported the river sand by using his JCB without any valid permission. Hence, the complaint.

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

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4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner had illegally transported the river sand by using his JCB without any valid permission. He would

submit that the respondent police seized the said JCB along with river sand. He further submitted that there are no previous cases pending against the petitioner.

5. It is seen that there are no previous cases pending against the petitioner and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five 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. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain

conditions.

(a) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five 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, Gudiyatham, on condition that the 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 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 for the interrogation.**

[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 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.

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

22.01.2021

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Internet: Yes

Index : Yes/No

To

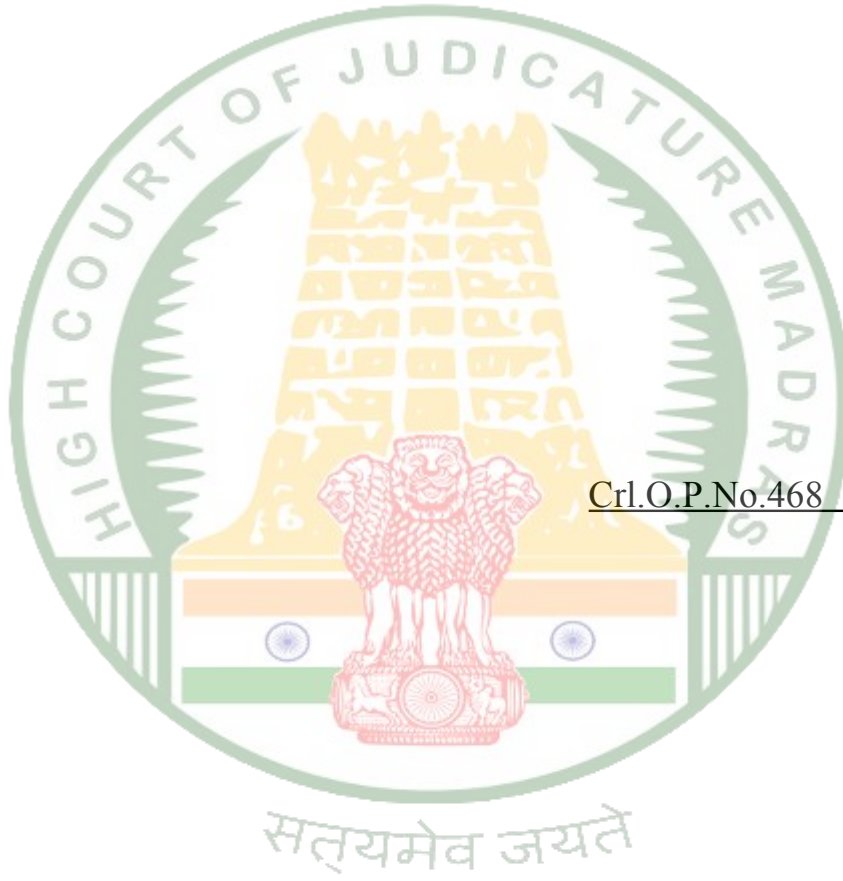
1.The Inspector of Police,
Melpatti Police Station,
Vellore District.

2.The Judicial Magistrate,
Gudiyatham.

3.The Public Prosecutor,
High Court, Madras.

V.BHARATHIDASAN, J

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