

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.757 of 2021

Ramar

... Petitioner

Vs.

The State by
The Inspector of Police,
Konganapuram Police Station,
Salem District.
(Cr.No.159 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioner on bail in the event of his arrest in Crime No.159 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.M.Balasubramanian

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 of IPC and Section 3 (1) of Prevention of Damage to Public Property Act, 1984, in Crime No.159 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant, the Sub Inspector of Police, Konganapuram Police Station, is that on 28.10.2020, while he was on his usual rounds, he had seen the accused without any permission from the Government, had dug and taken sand from Sarabanga River and transported the same by using Tipper Lorry bearing Regn.No.TN 23 AK 8711. Hence, the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and a false case has been foisted against him. He would submit that this is the second application for anticipatory bail and the earlier application was dismissed by this Court in Crl.O.P.No.18504 of 2020 by order dated 07.12.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner along with other accused without any valid permission or authorisation from the Government, had dug the land and taken sand and thereby degraded the environment and caused damages to the ecology. He would submit that as far as this petitioner is concerned he is the son of the owner of the lorry and he along with the other accused had committed theft of 3 units of river sand. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. This Court on the earlier occasion in Crl.O.P.No.18504 of 2020 dated 07.12.2020, 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 Court should take into consideration the role assigned to the person 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 he is the son of the owner of the lorry and that he along with the other accused has committed theft and transported 3 units of river sand without any valid permit. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

-sd/-
27/01/2021

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 INSPECTOR OF POLICE,
KONGANAPURAM POLICE STATION,
SALEM DIST.

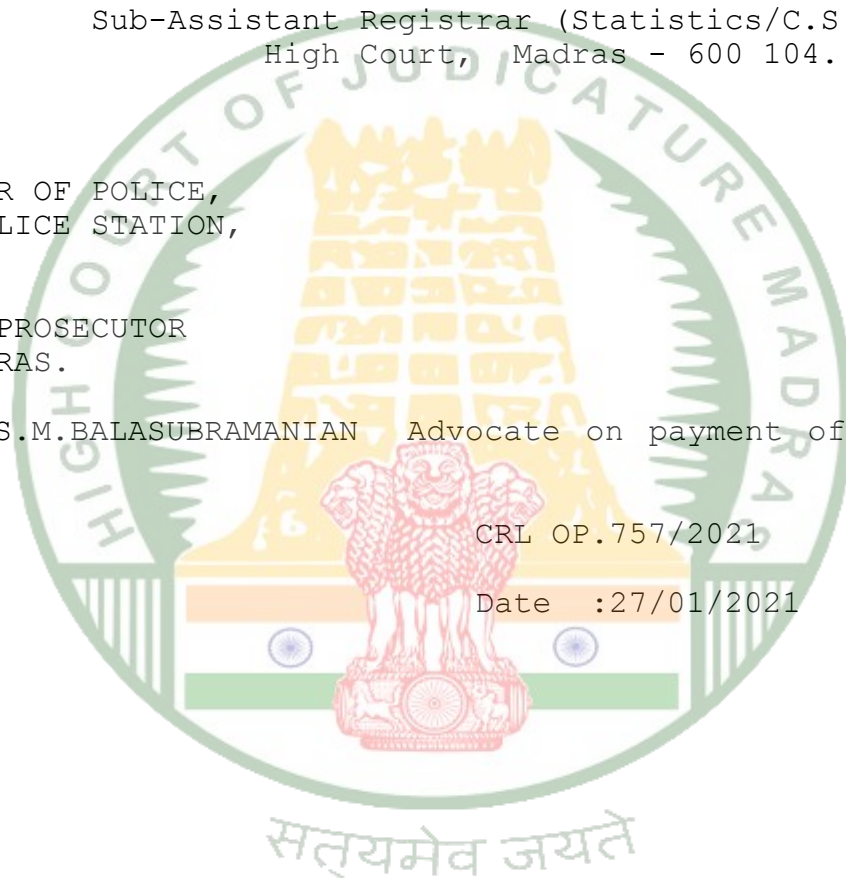
2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.757/2021

Date :27/01/2021

KSM10/02/2021



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