

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM

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

Crl.O.P.No.1675 of 2021

1.Prabhu
2.Dilibabu
3.Velu

... Petitioners

Versus

State represented by
The Inspector of Police,
SADRAS Police Station
Chengalpatu District
(Crime No.903 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge petitioners on bail in the event of their arrest in Crime No.903 of 2020, pending on the file of the respondent police.

For Petitioners: Mr.K.Thenrajan

For Respondent : Mr.T.Shunmuga Rajeshwaran
Government Advocate (Crl. Side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 430 and 379 of IPC and Section 21(1) of Mines and Minerals Act, 1957, in Crime No.903 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant/Stalin, Village Administrative Officer, Nallathur Village, T.K. Kundram Taluk, is that on 21.08.2020 at 6 a.m., while he was keeping watch in respect of illegal transport of sand, the petitioners were found illegally transporting ½ unit of river sand by using Bullock Cart. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that this is the 2nd application for anticipatory bail and the earlier application in Crl.O.P.No.13380 of 2020 was dismissed by this Court on 03.09.2020 along with Crl.O.P.No.13334 of 2020 Batch etc. stating that the petitioner had caused damage to the environment. Subsequent to the order passed by this Court, the Hon'ble Supreme Court has clarified stating that the case of the accused has to be considered on case to case basis and thereby, the present petition has been filed. Hence, he prays for anticipatory bail.

4. The learned Government Advocate (Crl. Side) would submit that the petitioners along with other accused were found illegally transporting ½ unit of river sand by using Bullock Cart. He would further submit that the Bullock Carts were fabricated in such a way to use them for transporting river sand without any wastage and that the petitioners are habitually involving in illicit mining and transport of river sand. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

5. This Court had dismissed the earlier application for anticipatory bail in Crl.O.P.No.13380 of 2020 by order dated 03.09.2020 along with Crl.O.P.No.13334 of 2020 Batch etc. 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 petitioners in the present case. In this case on hand, the petitioners have committed theft of ½ unit of river sand and transported the same by using Bullock Cart and thereby, spoiled the environment and caused damages to the ecology. Further, the petitioners are habitually involving in illicit mining and transport of river sand and that they have fabricated the Bullock Carts in such a way to use them for transporting river sand without any wastage. Therefore, this Court is not inclined to grant anticipatory bail to the petitioners.

7. Accordingly, this Criminal Original Petition stands dismissed.

-sd/-
16/02/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE INSPECTOR OF POLICE,
SADRAS POLICE STATION,
CHENGALPATTU DISTRICT.

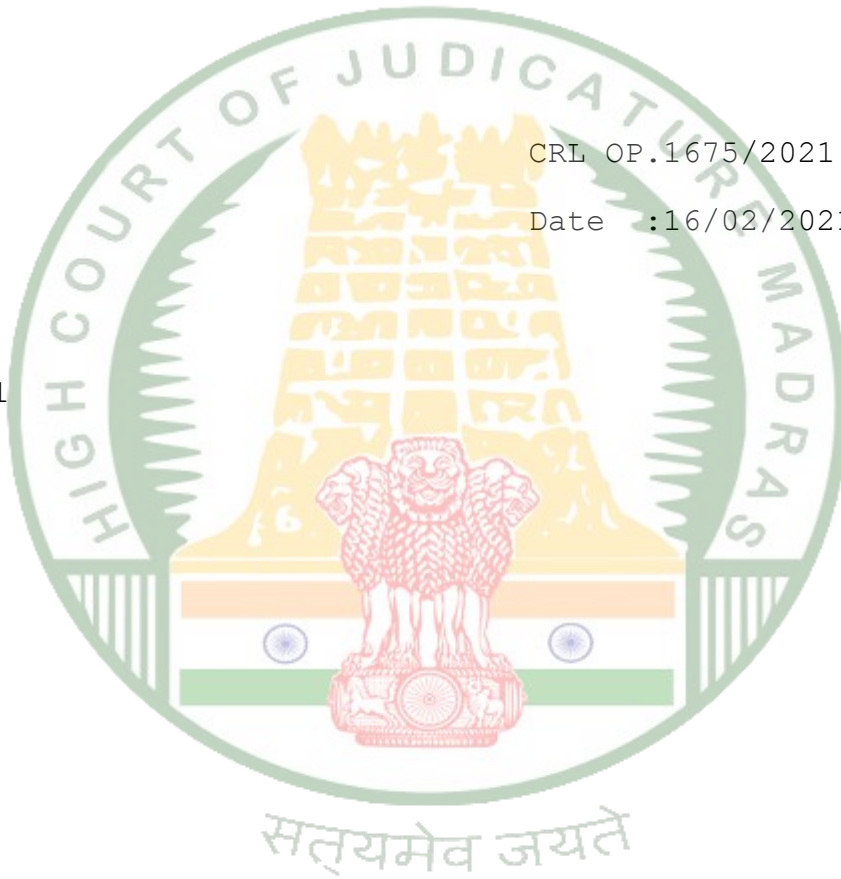
2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.K.THENRAJAN Advocate on payment of necessary
charges SR NO. 1674

CRL OP.1675/2021

Date :16/02/2021

MN-24/02/2021



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