

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2693 of 2021

1. S.Parthasarathy @ Bharathy
2. Gajendran

... Petitioners

-Vs-

State Rep. by
The Inspector of Police,
Kanchi Taluk Police Station,
Kancheepuram.
(Crime No.2332 of 2020)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioners on bail in the event of their arrest in Crime No.2332 of 2020 pending investigation on the file of respondent police.

For Petitioner : Mr.V.Karnan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 430, 379 of IPC and Section 3(1) of Prevention of Damage to Public Property Act, 1992 and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.2332 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported 2 units of river sand by using lorry and JCB bearing Registration Nos.TN 25 BX 7450 and TN 20 CH 8772, without any valid permission. Hence, the complaint.

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

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners had illegally transported 2 units of river sand by using lorry and JCB bearing Registration

Nos.TN 25 BX 7450 and TN 20 CH 8772, without any valid permission. He would submit that the respondent police seized 2 units of sand. He further submitted that there is no previous case pending as against the petitioners.

5. It is seen that there is no previous case pending as against the petitioners and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand Only) as non refundable deposit to "Satya Jothi Little Flower Extension Work Department, 4.G.N.Road, Chennai 600 006, State Bank of India, A/C.No.10497528950, IFSC Code. No.SBIN0001176" 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 their 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 petitioners with certain conditions.

(a) the petitioners are directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of "Satya Jothi Little Flower Extension Work Department, 4.G.N.Road, Chennai 600 006, State Bank of India, A/C.No.10497528950, IFSC Code. No.SBIN0001176" and on such payment and production of proof of deposit of the above amount, they shall be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate No.II, Kancheepuram, on condition that the petitioners shall execute a separate 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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

16/02/2021

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,
NO.II, KANCHEEPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KANCHI TALUK POLICE STATION,
KANCHEEPURAM.

5 SATYA JOTHI LITTLE FLOWER EXTENSION WORK DEPARTMENT,
4.G.N.ROAD, CHENNAI 600 006, STATE BANK OF INDIA,
A/C.NO.10497528950, IFSC CODE. NO.SBIN0001176

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

CRL OP.2693/2021

Date :16/02/2021

RVR 05/03/2021