

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.764 of 2021

1.Murugesan.J
2.Radha.J

.. Petitioners

Vs.

State rep. by
The Inspector of Police,
Thiruttani Police Station,
Thiruttani.
Crime No.2669 of 2020

..Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioners on bail in the event of their arrest in Crime No.2669 of 2020, on the file of the respondent police.

For Petitioners : Mr.M.Vignesh

For Respondent : Mr.C.Iyyappa Raj,
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 offences under Sections 379 and 430 IPC r/w 21(1) of MMDR Act, in Crime No.2669 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that on 07.10.2020, the petitioners along with another accused had dug the lake and taken 1/2 unit of sand using the Tractor bearing Registration No.TN 20 BC 1038 and TN 20 DZ 2441 attached with unregistered Trailors without any valid permission.

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 Crl.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 has commercially exploited the lake sand by using JCB and they have taken it in two tractors. He would submit that the petitioner has illegally taken the lake 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 petitioners in the present case. In this case on hand, the role assigned to the petitioners is that they have illegally transporting half unit of gravel sand in two tractors and that the petitioners have commercially exploited the lake sand by using JCB and they have taken in two tractors, this Court is not inclined to grant anticipatory bail petition.

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 JUDICIAL MAGISTRATE,
TIRUTTANI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR DIST[FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUTTANI POLICE STATION,
THIRUTTANI.

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

CRL OP.764/2021

Date :22/01/2021

ksm10/02/2021

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