

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.712 of 2021

Jayakumar

... Petitioner

Vs.

The State Rep. by
The Sub-Inspector of Police,
Kalasapakkam Police Station
Tiruvannamalai District
(Crime No.2935 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of his arrest in Crime No.2935 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.A.Sathishkumar

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner is a sole accused. He apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379, 430 of I.P.C. r/w 21(5) of Mines and Minerals (Development and Regulations) Act, 1957 and 3 of T.N. Public Property (Prevention of Damage and Loss) Act, 1992 in Crime No. 2935 of 2020, on the file of the respondent police, and now, he has filed this petition seeking to grant anticipatory bail.

2. The case of the prosecution is that on the date of occurrence, the petitioner said to have transported 1 unit of sand illegally to the Van and on seeing the police, the driver of the said vehicle absconded. Hence, the criminal case has been registered against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the offence. He would submit that the petitioner is doing transport business with the said vehicle in his locality,

he has been falsely implicated as accused in this case. On instruction, he would further submit that without prejudice to his right and contentions, he is prepared to deposit/pay some considerable amount to any charitable organization or association and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner is the owner of a van involved in the illegal transportation of 1 unit of sand. He has further submitted that there is no previous case pending against the petitioner. However, he opposed to grant anticipatory bail to the petitioner.

5. In order to curb the illegal transportation of sand and taking into consideration of the voluntary submission made by the petitioner offering to deposit or to pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to deposit/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, without prejudice to his right and contention 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 and also considering the fact that there is no previous antecedents against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :-

(a) The petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) either through RTGS/NEFT or in cash in favour of Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, within fifteen (15) days from the date of receipt of a copy of this order. On such deposit, the petitioner is ordered to be released on bail in the event of his arrest or his appearance before the learned District Munsif cum Judicial Magistrate, Kalasapakkam, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, 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

[c] the petitioner 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 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
21/01/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE,
KALASAPAKKAM.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
KALASAPAKKAM POLICE STATION,
TIRUVANNAMALAI.

5 THE TAMIL NADU ADVOCATE CLERK ASSOCIATION,
HIGH COURT MADRAS,
INDIAN BANK, HIGH COURT BRANCH,
A/C NO.484026006, IFSC CODE:IDIB000M157.

+1 CC to M/S A.SATHISHKUMAR Advocate on payment of necessary
charges SR NO. 728

CRL OP.712/2021

Date :21/01/2021

MN-02/02/2021



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