

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.880 of 2021

1. Subramaniam
2. Prakash Thambi

... Petitioners

Vs.

The State represented by the
The Inspector of Police,
Thadagam Police Station
Coimbatore
(Cr.No.373 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on anticipatory bail in the event of their arrest by the respondent police in Crime No.373 of 2020 on the file of the respondent police. The respondent of Police, Thadagam Police Station, Coimbatore.

For Petitioners : Mr. V.S.Senthil Kumar

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 offences punishable under Section 379 IPC, in Crime No.373 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the 1st petitioner is the owner and the 2nd petitioner is the driver. The allegation is that the petitioners have transported four units of sand illegally by using his vehicle bearing registration No.TN-38 BC 7427, without any valid licence. Hence, the complaint.

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

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is 4 units. He further submitted that there are no previous case pending against the petitioners.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit jointly a sum of Rs.10,000/- (Rupees Ten Thousand Only) as non refundable deposit to the Secretary Mr.R.Ayyappan (Ph:94443 86043), Madras High Court Advocate Clerk's Welfare Association, Indian Bank, Madras High Court,484 077 244, IDIB000M157 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 jointly a sum of Rs.10,000/- as non-refundable deposit either through RTGS/NEFT or in cash in favour of 'the Secretary Mr.R.Ayyappan (Ph:94443 86043), Madras High Court Advocate Clerk's Welfare Association, Indian Bank, Madras High Court,484 077 244, IDIB000M157 within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioners are directed to be released on bail in the event of their arrest or their appearance and on production of proof of deposit of the above amount and on further condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- each (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 the petitioners shall also give an letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[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.R.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/-

25/01/2021

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 SECRETARY MR.R.AYYAPPAN (PH:94443 86043),
MADRAS HIGH COURT ADVOCATE CLERK'S WELFARE ASSOCIATION,
INDIAN BANK, MADRAS HIGH COURT,484 077 244, IDIB000M157

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
THADAGAM POLICE STATION,
COIMBATORE.

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

CRL OP.880/2021

Date :25/01/2021

RVR 04/02/2021

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