

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.1676 of 2021

AMULRAJ

... Petitioner

Vs.

State Represented by, ... Respondent
The Inspector of Police,
Anaikaranchathiram Police Station
Nagapattinam District.
Crime No.811 of 2020.

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.811 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 379 and 430 IPC read with Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957, in Crime No.811 of 2020, on the file of the respondent, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Raguraman, Special Sub Inspector of Police is that on 13.08.2021 at about 1 p.m., while he along with his party was on vehicle check up in respect of illegal mining and transport of sand, he had seen a person riding a two wheeler namely TVS XL Super bearing Regn.No.TN51 Q 5376 loaded with two bags of river sand and on seeing the police he had dropped the two wheeler and ran away from the scene of occurrence. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner had transported two bags of sand for his own purpose after purchasing it from the building materials shop. Whereas, the police demanded money from him and since, he refused to pay the same, a false complaint has been registered against him and his vehicle was seized. He would further submit that this is the second application for anticipatory bail and the earlier application was dismissed by this Court on 10.09.2020 in CrI.O.P.No.13514 of 2020 pursuant to the orders passed by this Court in CrI.O.P.No.13334 of 2020 etc. Batch, dated 03.09.2020 stating that the petitioner has caused damage to the environment. He would submit that 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 and that there the petitioner has no previous case against him. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner was found transporting two bags of river sand by using TVS XL Super bearing Regn.No.TN51 Q 5376 without any permit. Hence, he would oppose for grant of anticipatory bail.

5. This Court on the earlier occasion in CrI.O.P.No.13514 of 2020 dated 10.09.2020, following the orders passed by this Court in a batch of applications in CrI.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 applications. Subsequently, the order of this Court in CrI.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 CrI.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 petitioner in the present case. In this case on hand, it is seen that the petitioner has transported two bags of sand in two wheeler for his own use after purchasing it from a shop and that there is no other case pending against the petitioner. Hence, this court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the **learned Judicial Magistrate, Sirkazhi**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of one week and thereafter, as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial. [e] 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 petitioner 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]**.

[f] If the accused thereafter abscond/s, a fresh FIR can be registered under Section 229A IPC.

-sd/-

09/02/2021

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,
SIRKAZHI.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

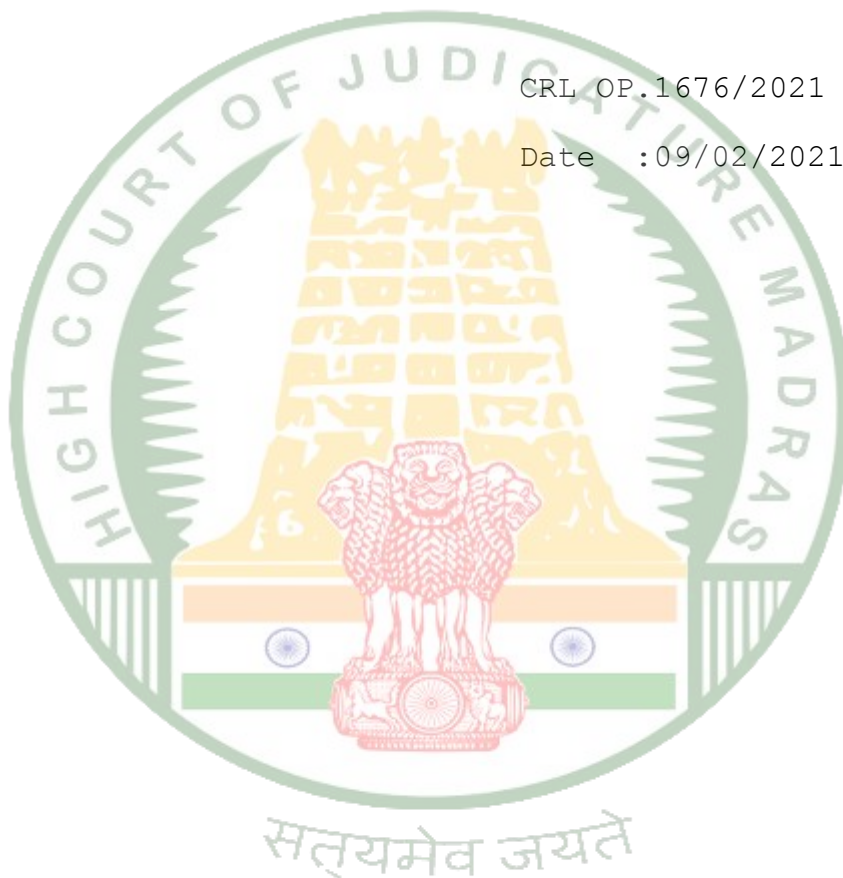
4 THE INSPECTOR OF POLICE,
ANAIKARANCHATHIRAM POLICE STATION,
NAGAPATTINAM DISTRICT.

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

CRL OP.1676/2021

Date :09/02/2021

TA-22/02/2021



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