

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25..02..2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3648 of 2021

1.C.Boobalan @ Prabhu @ Babu
2.S.Bakkiam

... Petitioners

Vs.

State by:

The Sub Inspector of Police,
Tharamangalam Police Station,
Salem District, Tamil Nadu 636 502.
[Crime No.9 of 2021]

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of of arrest in Crime No.9 of 2021 pending investigation on the file of the respondent police.

For Petitioners: Mr.A.Ramesh Manikandan

For Respondent : Mr.S.Karthikeyan, APP

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police in connection with a case registered in Crime No.9 of 2021 for the alleged offence punishable under Sections 21(1) of The Mines and Minerals (Development and Regulations) Act, 1957 r/w Section 379 of IPC, seek anticipatory bail.

2. The case of the prosecution is that on 02.01.2021 at 11.00 p.m. while the respondent police was on regular raid, a lorry bearing Regn. No. TN 48 AF 3044 was found transporting three units of illegally mined gravel. The 1st petitioner is stated to be the driver of the lorry and the 2nd petitioner is the owner of the lorry. Hence, a criminal case has been registered on a complaint from the Sub Inspector of Police. The police had seized the vehicle with the smuggled gravel.

3. The learned counsel appearing for the petitioners submitted that the petitioners are an innocents and they are no way connected with the offence. He further submitted that they have been falsely

implicated as accused in this case. However, on instructions, he submitted that without prejudice to their rights and contentions, they are prepared to donate a considerable amount to charity and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed the petition stating that the petitioners have indulged in transportation of illegally quarried gravel without having any valid license and hence, the respondent police had seized the vehicle with the smuggled gravel. He, however, submitted that there is no previous case pending against the petitioners.

5. In order to curb the illegal transportation of mines and minerals and taking into consideration of the voluntary submission made by the petitioners offering to donate a considerable amount for charity, this Court is of the opinion that the petitioners may be directed to donate a sum of Rs.20,000/- (Rupees Twenty Thousand only) to charity without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioners have donated some 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 and also considering the fact that there is no previous antecedents against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :-

(a) The petitioners are directed to donate a sum of Rs.20,000/- (Rupees Twenty Thousand only) either in cash or by way of demand draft or through RTGS/NEFT to the credit of A/c No. 0918101041798 maintained by Children Home for Boys Under Surabhi Trust, 22/10, 1st Street, Kumarasamy Nagar, Villivakkam, Chennai-600049 with Canara Bank (CNRB0000918), Villivakkam Branch, Chennai within fifteen (15) days from the date of receipt of a copy of this order. On such deposit, the petitioners are ordered to be released on bail in the event of arrest or their appearance before the learned Judicial Magistrate, Omalur, Salem District, on each of them executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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, 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 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 were imposed and the petitioners have been released on bail by the learned Magistrate himself/Trial Court 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.

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

-sd/-
25/02/2021

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,
OMALUR, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
THARAMANGALAM POLICE STATION,
SALEM DISTRICT, TAMILNADU-636 502.

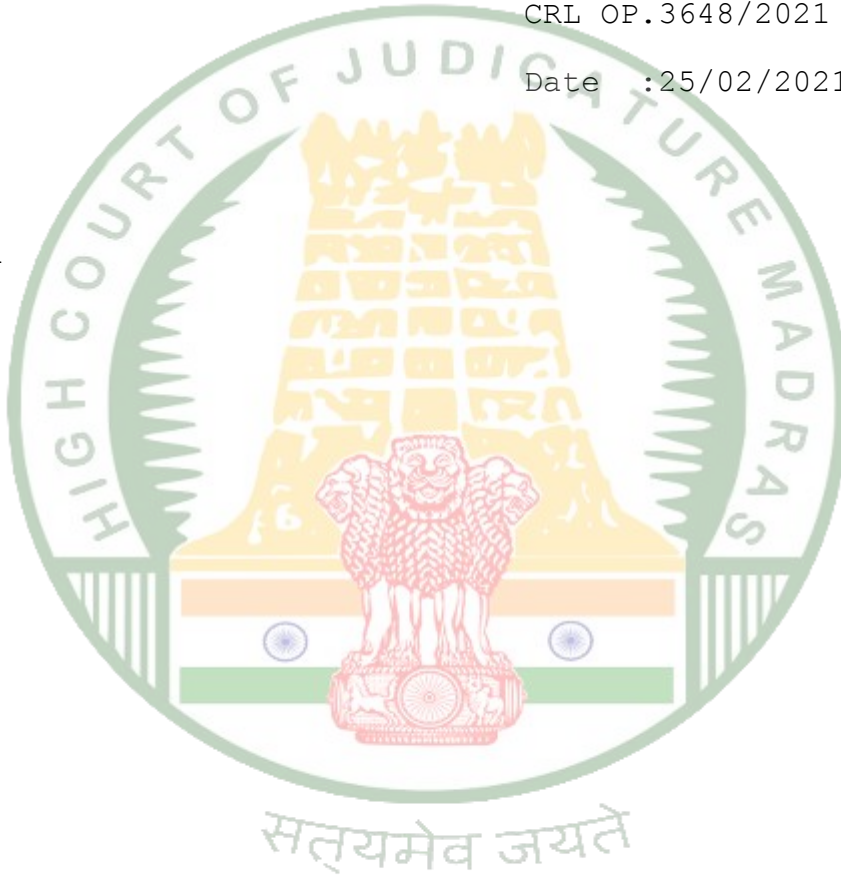
5 CHILDREN HOME FOR BOYS UNDER SURABHI TRUST,
22/10, 1ST STREET, KUMARASAMY NAGAR,
VILLIVAKKAM, CHENNAI - 600049,
(A/C.NO.0918101041798, IFSC NO.CNRB0000918)

+1 CC to M/S.A.RAMESH MANIKANDAN Advocate on payment of
necessary charges SR NO. 2474

CRL OP.3648/2021

Date :25/02/2021

MN-12/03/2021



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