

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.1108 of 2021

Siva @ Sivakumar

...Petitioner

Vs.

State Rep. by
The Inspector of Police
Kannamangalam Police Station
Tiruvannamalai District

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest in Crime No.2296 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.L.Venkatesan

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 379 and 430 IPC and 21(1) of the Mines and Minerals Act and Section 3(2) of TNPPDL Act, in Crime No.2296 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that on 01.09.2020, when the Inspector of Police along with his police party was on patrol duty, the petitioner was found illegally transporting 1 ½ unit of sand by using TATA 407 vehicle bearing Regn.No.TN30 AQ 1643. 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 further submit that this is the second application for anticipatory bail and the earlier application was dismissed by this Court in CrI.O.P.No.16895 of 2020 by order dated 02.11.2020. He would further submit that the petitioner is arrayed as A2 and he is the owner of the vehicle and that he has no other case against him. He would further submit that A1 in this case was arrested and thereafter, enlarged on bail. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner along with other accused without obtaining any permission from the Government had illegally dug the land and had transported

1 ½ units of river sand, thereby degraded the environment and caused damages to the ecology. He would submit that insofar as the petitioner is concerned, he is the owner of the vehicle and there is no previous case against him. However, he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. This Court on the earlier occasion in Crl.O.P.No.16895 of 2020 by order 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 Court should take into consideration the role assigned to the person 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, the role assigned to the petitioner is he is the owner of the vehicle and that he along with other accused has committed theft and transported 1½ units of river sand without any valid permit and commercially exploited the natural resources by using Pocline and Excavator. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

-sd/-

01/02/2021

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

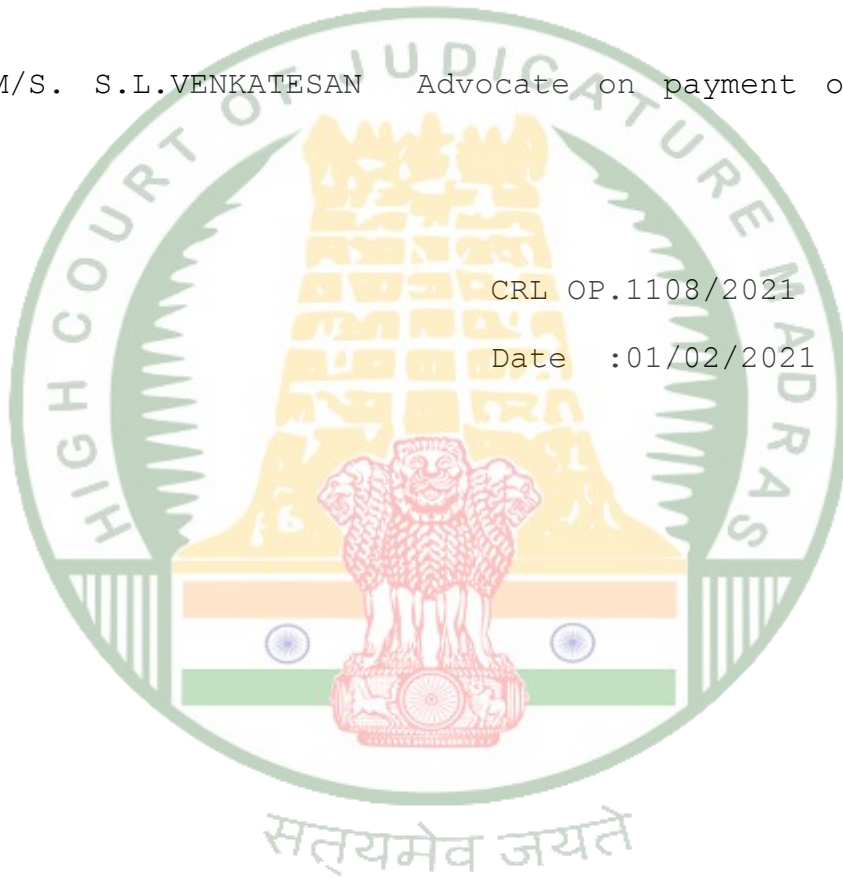
2 THE INSPECTOR OF POLICE,
KANNAMANGALAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.

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

CRL OP.1108/2021

Date :01/02/2021

RVR 18/02/2021



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