

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.1012 of 2021

1. Srinath
2. Anvesh
3. Surya

... Petitioners

Vs.

The State Represented by,
The Station House Officer,
Thakkolam Police Station,
Vellore District.
(Crime No.259 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 in Crime No.259 of 2020 on the file of respondent Police.

For Petitioners : Mr.D. Dayalan

For Respondent : Mr.C.Iyyappa Raj
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 offence punishable under Sections 379 and 430 of IPC, 1860 and Section 21(1) of Mines and Minerals (Development & Regulation) Act 1957 in Crime No.259 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners along with other accused have transported five units of sand illegally by using lorry and JCB, without any permit or valid license. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the 1st petitioner is the owner of the lorry bearing Regn.No.TN 73 R8686, the 2nd petitioner is the owner of the J.C.B. Bearing Regn.No.TN 73 R2525

and that the 3rd petitioner is the driver of the J.C.B. He would further submit that this is the second application for anticipatory bail and the earlier application was dismissed by this Court in Crl.O.P.No.13819 of 2020 by order dated 07.09.2020. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the petitioners along with other accused committed theft of sand and transported five units of river sand. He would submit that as far as the 1st petitioner is concerned, he is the owner of the lorry bearing Regn.No.TN 73 R8686, the 2nd petitioner is the owner of the J.C.B. bearing Regn.No.TN 73 R2525 and that the 3rd petitioner is the driver of the J.C.B. He would further submit that the petitioners are habitual offenders. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioners.

5. This Court on the earlier occasion in Crl.O.P.No.13819 of 2020 dated 07.09.2020, 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 petitioners in the present case. In this case on hand, the role assigned to the petitioners is that the 1st petitioner is the owner of the lorry, the 2nd petitioner is the owner of the J.C.B. and the 3rd petitioner is the driver of the J.C.B. The petitioners along with other accused committed theft of river sand by commercial exploitation engaging JCB and transported 5 units of river sand without any valid permit. Further, the petitioners are habitual offenders. Therefore, this Court is not inclined to grant anticipatory bail to the petitioners.

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 STATION HOUSE OFFICER,
THAKKOLAM POLICE STATION,
VELLORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. D.DAYALAN Advocate on payment of necessary charges

CRL OP.1012/2021

Date :01/02/2021

cs 10/02/2021

सत्यमेव जयते

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