

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.1014 of 2021

1.Srinath

2.Surya

... Petitioners

Vs.

State rep. by its,
The Inspector Of Police,
Thakkolam Police Station,
Vellore District.
(Cr.No.260 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in connection with in Crime No.260 of 2020 pending on the file of the 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 430, 379 and 511 of IPC, in Crime No.260 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioners had attempted to transported river sand by using lorries and JCB. 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. 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.14487 of 2020 by order dated 17.09.2020. He would submit that the 1st petitioner is the owner of the lorries bearing Regn.No.TN 73 AY8989 and TN 73 AY9292 and the 2nd petitioner is the driver of the JCB bearing

Regn.No.TN 73 AY4848 and they have not committed any offence as alleged by the prosecution. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioners without obtaining permission from the Government, had dug the land and taken sand and had attempted to transport the same by using lorries and JCB and thereby degraded the environment and caused damages to the ecology. He would further submit that insofar as the 1st petitioner is concerned, he is the owner of the lorries bearing Regn.Nos.TN 73 AY8989 and TN 73 AY9292 and the 2nd petitioner is the driver of the JCB bearing Regn.No.TN 73 AY4848. 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.14487 of 2021 dated 17.09.2020, 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 lorries and the 2nd petitioner is the driver of the JCB and that they have dug the land and taken sand and have attempted to transport the same by using lorries and JCB without any valid permit. Further, the petitioners are habitual offenders, involved in commercial exploitation by using JCB. 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 INSPECTOR OF POLICE,
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.1014/2021

Date :01/02/2021

cs 10/02/2021

सत्यमेव जयते

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