

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2021

CORAM :

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

CrI.O.P.No.1305 of 2021

G. Krishnamoorthy

... Petitioner

Vs.

The State Represented by,
The Sub-Inspector of Police,
Kandili Police Station,
Vellore District.
Crime No.796 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.796 of 2020 on the file of respondent Police.

For Petitioner : Mr.Karan and Uday

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

O R D E R

(The 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 of IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act 1957 in Crime No.796 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Santhi, Sub Inspector of Police is that 22.07.2020 when she along with her party was conducting vehicle check up, they intercepted a lorry bearing Regn.No.TN 24B 1870. On seeking the police, the petitioner/driver had left the vehicle and ran away from the place of occurrence and that the other accused namely Barkathulla was

apprehended by the defacto complainant. On search of the vehicle, two units of river sand was found without any permit or valid license. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person 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 on 07.09.2020 in CrI.O.P.No.13774 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 had 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. He would submit that the petitioner is the owner of the lorry and he has not committed any offence as alleged by the prosecution. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner is the owner of the lorry bearing Regn.No.TN 24B 1870. On 22.07.2020, the petitioner along with other accused without obtaining any permission from the Government had illegally dug the land and had transported two units of river sand and thereby degraded the environment and caused damages to the ecology. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. This Court on the earlier occasion in CrI.O.P.No.13774 of 2020 dated 07.09.2020, 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 is the owner of the lorry bearing Regn.No.TN 24B 1870 and he along with other accused has committed theft and transported two units of river sand and thereby involved in commercial exploitation. Hence, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition stands dismissed.

-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 SUB INSPECTOR OF POLICE
KANDILI POLICE STATION,
VELLORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.KARAN AND UDAY Advocate on payment of necessary charges

CRL OP.1305/2021

Date :09/02/2021

cs 17/02/2021

WEB COPY