

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.1167 of 2021

Gunasekaran

... Petitioner

Vs

The State, rep.,
The Inspector of Police,
Perugavazhathan Police Station,
Thiruvarur District.
(Crime No.1019 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to grant anticipatory bail to the petitioner in the event of his arrest in Crime No.1019 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.Swamisubramanian

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of IPC Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.1019 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had transported 60 cement bags of river sand illegally by using a vehicle, without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On instruction, he would further submit that the petitioner is prepared to deposit some considerable amount to any charitable organization or association without prejudice to his contention and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the the petitioner had transported 60 cement bags of river sand illegally by using a vehicle. He further submitted that there are no previous case pending against the petitioner.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees five Thousand Only) as non refundable deposit to Assisi Illam, St. Joseph's Social Service Centre, No.4/92-62, Magazine Road, St.Thomas Mount, Chennai-60016, **Indian Overseas Bank, A/C.No. 158101000003277, IFSC Code. No. IOBA0001581** without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) The petitioner is directed to deposit a sum of Rs.5,000/- (Rupees five Thousand Only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of **'Assisi Illam, St. Joseph's Social Service Centre, No.4/92-62, Magazine Road, St.Thomas Mount, Chennai-60016, Indian Overseas Bank, A/C.No. 158101000003277, IFSC Code. No. IOBA0001581,** and on such payment and production of proof of deposit of the above amount, he shall be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Thiruthuraipoondi, Thiruvarur District, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for the like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that:

[b] the petitioner 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 petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for the interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
18/02/2021

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 NO.II,
MANNARGUDI, THIRUVARUR DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERUGAVAZHANTHAN POLICE STATION,
THIRUVARUR DISTRICT.

5 THE ASSISI ILLAM, ST.
JOSEPHS SOCIAL SERVICE CENTRE, NO.4/92-62,
MAGAZINE ROAD, ST.THOMAS MOUNT,
CHENNAI-60016.
INDIAN OVERSEAS BANK,
A/C.NO. 158101000003277,
IFSC CODE. NO. IOBA0001581,

+1 CC to M/S.SWAMISUBRAMANIAN Advocate on payment of necessary charges SR.NO.2037

CRL OP.1167/2021

Date :18/02/2021