



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.02.2021

CORAM

WEB COPY

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

CRL.O.P.No.2225 of 2021

Sugumar

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Manavalanagar Police Station
Thiruvallur District
(Crime No.1679 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. to enlarge the petitioner on bail in the event of his arrest in Crime No.1679 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.Sasikumar

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, 430 of I.P.C.R/w Section 21(1) Mines and Minerals Act, in Crime No.1679 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Mahesh, Sub Inspector of Police, Manavala Nagar P.S. is that on 06.08.2020 while he was keeping a watch in respect of illegal transport of river sand, he had seen a Swift Car bearing Regn.No.TN10 AR 3034 coming on the way. When the police party had attempted to stop the vehicle, the driver of the vehicle stopped the vehicle and ran away from the scene of occurrence and on search, the vehicle was found to be transporting 15 cement bags containing river sand following which, the car was seized and the case was registered on the complaint of the defacto complainant.

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 submit that the petitioner is engaged in the business of fixing Flex Board and one Akash who is known to the petitioner and a neighbor had borrowed the car from the petitioner and since the said Akash is constructing a house, he had purchased sand from a construction material dealer. While he was bringing it home, the police party had intercepted the vehicle and since, the said Akash



was having previous cases, on seeing the police, he had left the vehicle and had run away from the place of occurrence. Thereby, the respondents have taken the car and registered the case. He would submit that on the particular date, the petitioner was not present. Even as per the F.I.R., it is not possible to load 15 cement bags containing sand in a Maruthi Swift Car. He would submit that this is second application for anticipatory bail. The the earlier application for anticipatory bail was dismissed by this Court on 10.11.2020 in Crl.O.P.No.17768 of 2020 following the orders passed in Crl.O.P.No.13334 of 2020 and connected batch dated 03.09.2020. 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.

4. The learned Additional Public Prosecutor would submit that on 06.08.2020 when the defacto complainant was keeping a watch in respect of illegal transport of river sand, he had seen a Swift car bearing Regn.No.TN10 AR 3034 coming on the way. When he had attempted to stop the vehicle, the driver of he vehicle stopped the vehicle and ran away from the scene of occurrence and on search, the vehicle was found to be loaded with 15 cement bags containing river sand. He would further submit that there is one previous case against the petitioner registered for offence under Section 294 (b) IPC. He he opposed for grant of anticipatory bail.

5. The learned Counsel for the petitioner would reiterate that the petitioner has no other case against him and he is not the person who is involved in sand trading. On instruction, he would submit that the petitioner is prepared pay/donate some considerable amount to any charitable organization of association without prejudice to his rights and contention.

6. This Court on the earlier occasion in Crl.O.P.No.17768 of 2020 dated 10.11.2020, 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 applications 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 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 role assigned to the person would have to be considered on case to case basis.



7. 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 engaged in the business of fixing Flex Board and that on the date of occurrence, the petitioner's vehicle had been borrowed by one Akash who is his neighbour. Further, it is seen that the petitioner has no other case of similar nature and he is not a habitual offender who is involved in illegal sand mining. Therefore, this Court is inclined to grant anticipatory bail to the petitioner.

8. In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.10,000/- (Rupees Ten Thousand only), to "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856," without prejudice to his rights and contention before the trial Court.

9. Accordingly, the petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only), to "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856". On such payment and production proof, the petitioner is ordered to 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 is made ready, before the learned Judicial Magistrate-II, Thiruvallur, 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 a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

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

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

[d] the petitioner shall not abscond either during investigation or trial.



[e] 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].

[f] If the accused thereafter abscond/s, a fresh FIR can be registered under Section 229A IPC.

[g] Merely, because the petitioner deposit 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.

-sd/-

12/02/2021

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, THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MANAVALANAGAR POLICE STATION,
THIRUVALLUR DISTRICT.

5 THE DEAN, RAJIV GANDHI GOVERNMENT GENERAL HOSPITAL,
CHENNAI, BEARING A/C.NO.10273425961, STATE BANK OF INDIA,
PARK TOWN (CHENNAI), 68, EVENING BAZAAR ROAD,
CHENNAI, IFSC:SBIN0001856

CC to M/S.S.THIYAGARAJAN Advocate on payment of necessary charges Sr.1565

CRL OP.2225/2021

Date :12/02/2021

RVR 19/02/2021