

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P.No.1623 of 2021

1. Kumaresan
2. Murugan

... Petitioners

-Vs-

State by:-

The Inspector of Police,
Pochampalli Police Station,
Krishnagiri District,
(Crime No.625 of 2020)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioners on bail in the event of their arrest in Crime No.625 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.M.Jayachandran

For Respondent : Mr.S.Karthikeyan
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 alleged offence punishable under Sections 379 of IPC (Soil theft) in Crime No.625 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported lunit of clay sand (9 meters) by using Tipper Lorry bearing Registration No. TN 24 AL 7356 without any valid permission Hence, the complaint.

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

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners had transported 1 unit of clay sand (9 meters) by using Tipper Lorry bearing Registration No. TN 24 AL 7356 without any valid permission. He would submit that the respondent police seized the said Vehicle 1 unit of sand. He further submitted that there are no previous cases pending against the petitioners.

5. It is seen that there are no previous cases pending against the petitioners and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) as non refundable deposit to 'Madras High Court Advocates Clerks Welfare Association, Indian Bank High Court Branch', A/C.No.484077244, IFSC Code. No. IDIB000M157 without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their 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 petitioners with certain conditions.

(a) The petitioners are 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 ' 'Madras High Court Advocates Clerks Welfare Association, Indian Bank High Court Branch', A/C.No.484077244, IFSC Code. No. IDIB000M157, and on such payment and production of proof of deposit of the above amount, they shall be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the Principal District Session Judge, Krishnagiri, on condition that the petitioners shall execute a separate 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 petitioners 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 petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

04/02/2021

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 PRINCIPAL DISTRICT SESSION
JUDGE, KRISHNAGIRI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
POCHAMPALLI POLICE STATION,
KRISHNAGIRI DISTRICT.

4 MADRAS HIGH COURT ADVOCATES CLERKS WELFARE
ASSOCIATION, INDIAN BANK HIGH COURT BRANCH
SB.A/C NO. 484077244, IFSC CODE:IDIB000M157

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

CRL OP.1623/2021

Date :04/02/2021

RVR 12/02/2021