

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.1818 of 2021

1. Shanmugam
2. Seran

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Kambainallur Police Station
Dharmapuri District.
(Crime No.26 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No. 26 of 2021 pending investigation on the file of the Respondent.

For Petitioners : Mr.M.Jayachandran

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

ORDER

(The case has been heard through video conference)

The petitioners apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 of I.P.C. r/w 21(1)(4) of Mines and Minerals (Development and Regulation) Act in Crime No. 26 of 2021, on the file of the respondent police, and now, they have filed this petition seeking to grant anticipatory bail.

2. The case of the prosecution is that the 1st petitioner is a land owner and the 2nd petitioner is driver cum owner of the Tractor. On the date of occurrence, while the respondent police was in regular ride at Pattagapatti, they found that the petitioners said to have transported $\frac{3}{4}$ unit of sand in the tractor without having valid license and Government permission. On seeing police, the petitioners ran away from the scene of occurrence. Hence, the criminal case has been registered against the petitioners and now, apprehending arrest, this petition has been filed seeking for anticipatory bail.

3. The learned counsel appearing for the petitioners submitted that the petitioners are hailing from a noble family, they are innocent persons and they are no way connected with the offence. He would submit that the 1st petitioner being land owner and 2nd petitioner being driver cum owner of a tractor with JCB, they have been falsely implicated as accused in this case. On instruction, he would further submit that without prejudice to their rights and contentions, they are prepared to deposit/pay some considerable amount to any charitable organization or association and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the 1st petitioner is the land owner and 2nd petitioner is owner cum driver of a tractor with JCB and they have transported sand in their tractor illegally without having valid license. He would submit that on seeing the police, the petitioners ran away from the scene of occurrence. He would submit that there is no previous case pending against the petitioners. However, he opposed to grant anticipatory bail to the petitioners.

5. In order to curb the illegal transportation of sand and taking into consideration of the voluntary submission made by the petitioners offering to deposit or to pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners may be directed to deposit/pay a sum of **Rs.10,000/- (Rupees Ten Thousand only)** to the **Madras High Court Advocates Clerks Welfare Association, High Court of Madras, Indian Bank, High Court Branch, A/c.No.484077244 IFSC.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 and also considering the fact that there is no previous antecedents against the petitioners, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :-

(a) The petitioners are directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) either through RTGS/NEFT or in cash in favour of **Madras High Court Advocates Clerks Welfare Association, High Court of Madras, Indian Bank, High Court Branch, A/c.No.484077244 IFSC.No. IDIB000M157**, within fifteen (15) days from the date of receipt of a copy of this order. On such deposit, the petitioners are ordered to be released on bail in the event of their arrest or their appearance before **the learned Judicial Magistrate, Harur**, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent

satisfaction of the learned Magistrate concerned, 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

05/02/2021

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,
HARUR.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KAMBAINALLUR POLICE STATION,
DHARMAPURI DISTRICT.

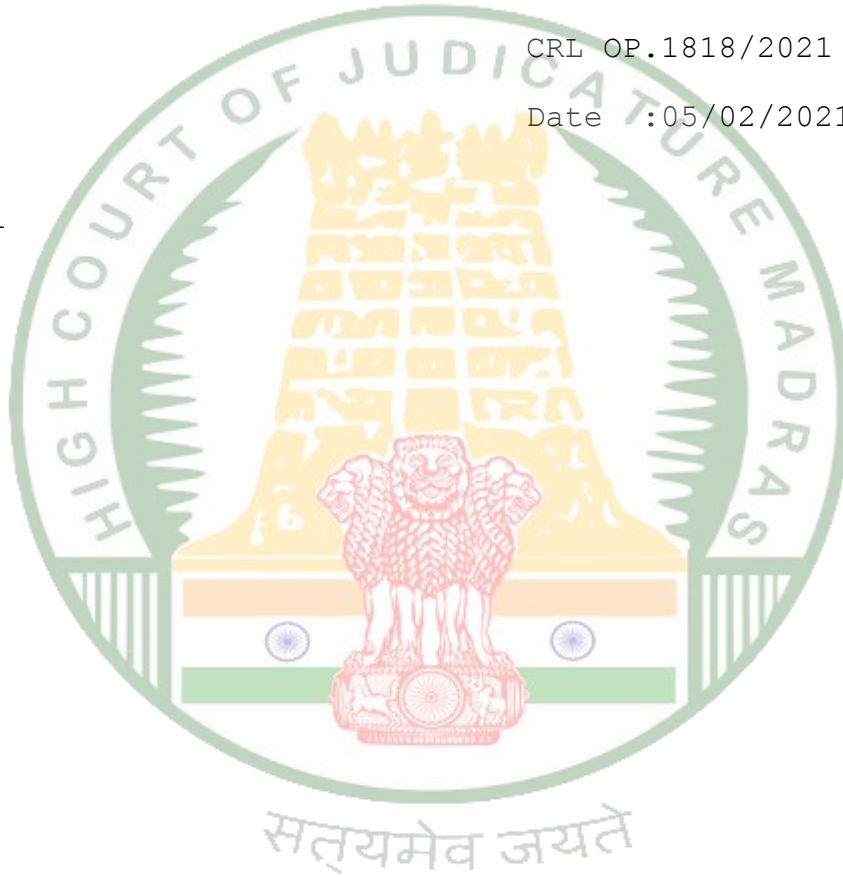
5 THE MADRAS HIGH COURT ADVOCATES
CLERKS WELFARE ASSOCIATION,
HIGH COURT OF MADRAS,
INDIAN BANK, HIGH COURT
BRANCH, A/C.NO.484077244 IFSC.NO.IDIB000M157.

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

CRL OP.1818/2021

Date :05/02/2021

TA-22/02/2021



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