

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2021

CORAM :

THE HON'BLE Mr. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.2040 of 2021

1.Kannan
2.Rajamanikkam

... Petitioners

Vs.

The State Represented by
Inspector of Police,
D-5, Salavakkam Police Station,
Kancheepuram District.
(Crime No.585 of 2020)

... 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 by the respondent police concerned in Crime No.585 of 2020 on the file of the respondent police.

For Petitioners : Mr.S.Yogarajasekar

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 offences punishable under Sections 379 & 430 of I.P.C & 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.585 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners said to have transported half unit of savudu sand illegally without having valid license and Government permission. Hence, the criminal case has been registered against the petitioners.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they are in no way connected with the alleged offence. He would submit that 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 hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners transported half unit of savudu sand illegally by using JCB and Tipper Lorry without having valid license and hence, the respondent police had seized the vehicle. 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.5,000/- (Rupees Five Thousand only) to the Ramalinga Adigalar, 2/263, B.Susila Nagar, 2nd Street, Kovilambakkam, Chennai 129, Karur Vysya Bank, A/c.No.1789115000000370 IFSC.No.KVBL0001789, 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 petitioners subject to the following conditions :-

(a) The petitioners are directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) either through RTGS/NEFT or in cash in favour of Ramalinga Adigalar, 2/263, B.Susila Nagar, 2nd Street, Kovilambakkam, Chennai 129, Karur Vysya Bank, A/c.No.1789115000000370 IFSC.No.KVBL0001789, 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, Uthiramerur, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, 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, 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/-
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 JUDICIAL MAGISTRATE,
UTHIRAMERUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
D-5, SALAVAKKAM POLICE STATION,
KANCEEPURAM DISTRICT

5 THE RAMALINGA ADIGALAR,
2/263, B.SUSILA NAGAR,
2ND STREET, KOVILAMBAKKAM,
CHENNAI 129, KARUR VYSYA BANK,
A/C.NO.1789115000000370
IFSC.NO.KVBL0001789

+1CC to M/S.M.VINOTH Advocate on payment of necessary charges
SR NO.1359

CRL OP.2040/2021

Date :09/02/2021