

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2021

CORAM :

THE HON'BLE Mr.JUSTICE **V. BHARATHIDASAN**

Crl.O.P.No.1972 of 2021

1.M.Deivasigamani
2.R.Munusamy

.... Petitioners

Vs.

State Rep. by its
Inspector of Police,
Banavaram Police Station
Vellore District.
(Crime No.352 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 arrest in Crime No. 352 of 2020 pending investigation on the file of the Respondent.

For Petitioners : Mr.G.P.Sivakumar

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(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 r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No. 352 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are said to have transported 1/2 unit of sand illegally by using Tipper Lorry bearing Registration No.TN 73 A 4807, without having valid license and Government permission and thereby, the police had seized the vehicle. Hence, the criminal case has been registered against the petitioners.

3. The learned counsel appearing for the petitioners submitted that the petitioners are an 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 to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner transported half unit of river sand by using Tipper Lorry illegally 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.10,000/- (Rupees Ten 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.10,000/- (Rupees Ten 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 petitioner is ordered to be released on bail in the event of his arrest or his appearance before **the learned Judicial Magistrate, Sholinghur**, 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 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.

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V.BHARATHIDASAN, J.

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To

1. The Judicial Magistrate,
Sholinghur.
- 2.The Inspector of Police,
Banavaram Police Station,
Vellore District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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