

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.2781 of 2021

Mohammed Nasar

... Petitioner

-Vs-

State by
Station House Officer,
Kattumannarkoil Police Station,
Cuddalore District.
(Crime No.58 of 2021)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on Anticipatory bail in the event of his arrest by the respondent police concerned in Crime No.58 of 2021 on the file of Station House Officer, Kattumannarkoil Police Station, Cuddalore District on his appearance before the concern Court.

For Petitioner : Mr.K.Balu

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 430, 379 IPC r/w Section 21 (1) of Mines and Minerals (Development & Regulation Act, 1957 in Crime No.58 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was found in possession of 1 ½ units of White M-sand in Lorry and Tractor along with Trailer, without any valid permission. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On instruction, he would further submit that the petitioner is prepared to deposit some considerable

amount to any charitable organization or association without prejudice to his contention and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner was found in possession of 1 ½ units of White M-sand in Lorry and Tractor along with Trailer, without any valid permission. He would submit that the respondent police have seized the said Vehicles along with 1 ½ units of White M-sand. He further submitted that there is no previous case pending against the petitioner.

5. It is seen that there is no previous case pending against the petitioner and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) as non refundable deposit to "St.Soosaiyappar, Karunai Illam, (Home for the Destitute), R.C.Primary School, Punnai Nagar, Holy Cross Road, Nagercoil - 629 004, A/C.No.005100050309131, IFSC Code: TMBL0000005 (Sr.Udhya: 8973060900)" without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner has deposited 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.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of "St.Soosaiyappar, Karunai Illam, (Home for the Destitute), R.C.Primary School, Punnai Nagar, Holy Cross Road, Nagercoil - 629 004, A/C.No.005100050309131, IFSC Code: TMBL0000005 (Sr.Udhya: 8973060900)" and on such payment and production of proof of deposit of the above amount, he shall 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 made ready, before the Judicial Magistrate cum District Munsif, Kattumannarkoil, 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 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 petitioner 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 petitioner 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 petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner 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 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].

[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/-
16/02/2021

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 CUM DISTRICT MUNSIF,
KATTUMANNARKOIL.

2 THE CHIEF JUDICIAL MAGISTRATE,
CUDDALORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER
KATTUMANNARKOIL POLICE STATION,
CUDDALORE DISTRICT.

5 ST.SOOSAIYAPPAR, KARUNAI ILLAM,
(HOME FOR THE DESTITUTE), R.C.PRIMARY SCHOOL,
PUNNAI NAGAR, HOLY CROSS ROAD, NAGERCOIL - 629 004,
A/C.NO.005100050309131, IFSC CODE: TMBL0000005
(SR.UDHYA: 8973060900)

+1 CC to K.BALU Advocate on payment of necessary charges SR NO.
1709

CRL OP.2781/2021

Date :16/02/2021

MN-24/02/2021



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