

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Twenty Third day of February Two Thousand Twenty One
PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN
CRIMINAL ORIGINAL PETITION No.3267 of 2021

1 SENTHIL KUMAR
2 P.M.GUNASEKARAN

[PETITIONERS / ACCUSED NO.1,2]

Vs

STATE REP BY,
THE INSPECTOR OF POLICE,
KODUMUDI POLICE STATION,
ERODE DISTRICT.
CR NO.424/2020.

[RESPONDENT]

For Petitioner : M/S.K.MYILSAMY Advocate

For Respondent : M/S.S.KARTHIKEYAN, Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners are A1 and A2. Apprehending arrest at the hands of the respondent police for the alleged offence under Section 379 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act in Crime No.424 of 2020 on the file of the respondent police, the petitioners seeks anticipatory bail.

2. The case of the prosecution is that when the defacto complainant with his subordinates were conducting routine check-up, they intercepted the tripper lorry belonging to the first petitioner and driven by the second petitioner, on inspection they found 4 units of gravel sand without any valid authorisation. Hence, the respondent police registered a case against the petitioners.

3. The learned counsel appearing for the petitioners submitted that the petitioner did not indulged in any offence and hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners have transported 4 unit of gravel sand unauthorizedly. The first petitioner is the owner of the tripper lorry and the second petitioner is the driver.

5. The learned counsel for the petitioners, on instructions, submitted that the petitioners are prepared to deposit a sum of Rs.40,000/- without prejudice to his defence.

6. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions :

(a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Kodumudi, 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

(c) The petitioners are directed to deposit a sum of Rs.40,000/- (Rupees forty Thousand only) to the credit of Ozanam Home of Love, Ozanam Anbu Illam, Nanguneri, Tirunelveli District, Indian Overseas Bank, Nanguneri Branch, (A/c.No.13871000006401, IFSC No.IOBA0001387), within a period of two weeks from the date of receipt of a copy of this order without prejudice to his rights and contentions before the trial Court ;

(d) The petitioners shall appear before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation.

(e) The petitioners shall not tamper with evidence or witness either during investigation or trial.

(f) The petitioners shall not abscond either during investigation or trial.

(g) 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].

(h) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
23/02/2021

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,
KODUMATHI.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KODUMUDI POLICE STATION,
ERODE DISTRICT.

5 OZANAM HOME OF LOVE,
OZANAM ANBU ILLAM, NANGUNERI, सत्यमेव जयते
TIRUNELVELI DISTRICT,
INDIAN OVERSEAS BANK, NANGUNERI BRANCH,
(A/C.NO.13871000006401, IFSC NO.IOBA0001387)

+1 CC to M/S.K.MYILSAMY Advocate on payment of necessary charges
SR.No.2237

CRL OP.3267/2021

Date :23/02/2021

cs 04/03/2021