

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2021

CORAM

THE HON'BLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.3317 of 2021

Michaelraj

... Petitioner

Vs.

State represented by
The Inspector of Police,
Sankar Nagar Police Station,
Chennai District.
(Cr.No.995 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioner on bail in the event of his arrest in Crime No.995 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.K.Gandhi Kumar

For Respondent : Mr.C.Iyyappa Raj
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 offence punishable under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act 1957 in Crime No.995 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant/ Ravi, Tahsildar, Pallavaram, Chennai is that on 16.10.2020 while he was on usual rounds, he had found the accused without any permission or license from the Government, had stored beach sand mixed with Savudu sand and a lorry and JCB was also found. Hence, the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner is the owner of the lorry bearing Regn.No.TN 09 AZ 6216 and the driver has used the lorry without his permission for transporting sand. He would further submit that this is the second application for anticipatory bail and the earlier application in Cr1.O.P.No.18509 of 2020 was dismissed by this Court on 07.12.2020 following the orders passed in Cr1.O.P.No.13334 of

2020 etc. batch dated 03.09.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would vehemently oppose stating that the petitioner along with other accused involved in illicit sand trade and they have stored illicit sand at Sharnkar Nagar, Pammal and thereby, they have commercially exploited the sand. He would submit that the lorry bearing Regn.No. TN 09 AZ 6216 and the Bulldozer namely JCB bearing Regn.No.AP02 Q 5556 were seized at the scene of occurrence. He would reiterate that that petitioner has involved in commercial exploitation.

5. This Court on the earlier occasion in Crl.O.P.No.18509 of 2020 by order dated 07.12.2020, following the orders passed by this Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier application. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the Court should take into consideration the role assigned to the person on case to case basis.

6. Accordingly, this Court takes into consideration, the role assigned to the petitioner in the present case. In this case on hand, it is seen that the petitioner along with other accused has committed theft of sand by using JCB and illegally stored them by mixing it with beach sand and thereby, commercially exploited the natural resources by using JCB and Excavator. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

-sd/-

24/02/2021

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 INSPECTOR OF POLICE,
SANKAR NAGAR POLICE STATION,
CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.K.GANDHI KUMAR Advocate on payment of necessary
charges

CRL OP.3317/2021

Date :24/02/2021

MN-17/03/2021



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