

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM

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

Crl. O.P. No. 6917 of 2021

P. Mohan

... Petitioner/Accused

-VS-

State Represented by
The Inspector of Police,
Barur Police Station,
Krishnagiri District.

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, 1973, praying to grant anticipatory bail in the event of his arrest in Crime No. 592 of 2020 on the file of the Inspector of Police, Barur, Krishnagiri District.

For Petitioner : Mr. V.Gopalsamy

For Respondent : Mr. V.J.Priyadarsana,
Counsel appearing for the Government

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 the Indian Penal Code, 1860, in Crime No. 592 of 2020 on the file of the Respondent Police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the Petitioner has illegal transported $\frac{1}{4}$ unit of river sand illegally by using Tractor without any valid permit. Hence, the complaint.

3. The Learned Counsel for the Petitioner would submit that this is the second application for anticipatory bail and the earlier application for anticipatory bail filed by the Petitioner in Crl. O.P. No. 17342 of 2020 was dismissed on 05.11.2020. He would further submit that the Petitioner has not committed any offence as alleged by the prosecution. Hence, he prays for grant of anticipatory bail to the Petitioner.

4. The Learned Counsel appearing for the Government would submit that the Petitioner without obtaining permission from the Government, had illegally dug the land and taken sand and had attempted to transport the same by using Tractor and thereby, degraded the environment and caused damages to the ecology. He would reiterate that that the Petitioner has involved in commercial exploitation of river sand. He would further submit that the Tractor was seized at the scene of occurrence. Hence, he vehemently opposed for the grant of anticipatory bail to the Petitioner.

5. Heard the Learned Counsels and perused the earlier dismissal order dated 05.11.2020.

6. This Court on the earlier occasion in Crl. O.P. No. 17342 of 2020 dated 05.11.2020, 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 etc., batch 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.

7. Accordingly, this Court takes into consideration, the role assigned to the Petitioner in the present case. In this case on hand, the role assigned to the Petitioner is that the Petitioner has dug the land and taken sand and have attempted to transport the same by using Tractor without any valid permit. Further, the Petitioner is involved in commercial exploitation of sand. Therefore, this Court is not inclined to grant anticipatory bail to the Petitioner.

8. Accordingly, this Criminal Original Petition is dismissed.

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vjt

Index: Yes/No

Internet: Yes/No

To

1. The Inspector of Police,
Barur Police Station,
Krishnagiri District.
2. The Judicial Magistrate Court,
Poochampalli.

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3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.



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A.D. JAGADISH CHANDIRA, J.

vjt



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