

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Ninth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.4618 of 2021

K.RAJESH PRABHU

[PETITIONER / ACCUSED]

(AS PER FIR WRONGLY MENTIONED RAJASH BABU)

Vs

STATE REP.

[RESPONDENT]

THE INSPECTOR OF POLICE,
NAGOOR POLICE STATION,
NAGAPATTINAM DISTRICT.
CRIME NO.1538 OF 2020

For Petitioner : M/S.S.VINOTH KUMAR Advocate

For Respondent : M/S. K.PRABAKAR Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 379 of I.P.C and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.1538 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. Totally there are 4 accused in this case and the petitioner is A4. It is alleged the petitioner had transported six units of Savudu sand without proper permission. Hence the case came to be registered.

3. The learned counsel appearing for the petitioner would submit that he is the owner of the lorry and he has transported six units savudu sand after obtaining proper permission from the authorities concerned. Hence he prays for grant of anticipatory bail to the petitioner. 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 the petitioner had transported six units of Savudu sand without proper permission. He would further submit that this is the second anticipatory bail application and earlier anticipatory bail application was dismissed by this Court. Hence he opposed for grant of anticipatory bail to the petitioner.

5. It is seen that there is no previous case is pending as against the petitioner and in order to curb the illegal 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 'MDM Children Home for Boys, Sathumadhurai, Kaniyambadi, Vellore District, Indian Overseas Bank, A/C No. 53601000014256, IOBA0000536" 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 'MDM Children Home for Boys, Sathumadhurai, Kaniyambadi, Vellore District, Indian Overseas Bank, A/C No. 53601000014256, IOBA0000536" 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 No.II, Nagapattinam, 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/-
09/03/2021

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 NO.II,
NAGAPATTINAM.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NAGOOR POLICE STATION,
NAGAPATTINAM DISTRICT.

5 MDM CHILDREN HOME FOR BOYS,
SATHUMADHURAI, KANIYAMBADI,
VELLORE DISTRICT, INDIAN OVERSEAS BANK,
A/C NO. 53601000014256, IOBA0000536.

+1 CC to M/S.S.VINOTH KUMAR Advocate on payment of necessary charges SR NO. 3137

CRL OP.4618/2021

Date :09/03/2021