

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25..02..2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.3752 of 2021

Suresh

... Petitioner

Vs.

State by:

... Respondent

The Station House Officer,
Vanur Police Station,
Villupuram District.
[Crime No.26 of 2021]

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of of his arrest in Crime No.26 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.A.T.Anbu Kumar

For Respondent : Mr.S.Karthikeyan, APP

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police in connection with a case registered in Crime No.26 of 2021 for the alleged offence punishable under Sections 379 of IPC r/w 21(1) of The Mines and Minerals (Development and Regulations) Act, seeks anticipatory bail.

2. The case of the prosecution is that on 16.02.2021 at 14.00 hours, while the respondent police was on regular raid, a lorry bearing Regn. No. TN 20 AP 3765 was found transporting three units of illegally mined red sand. The petitioner is stated to be the owner of the lorry. Hence, a criminal case has been registered against the petitioner and the driver of the lorry on a complaint from the Sub Inspector of Police. The police had seized the vehicle with the smuggled red sand.

3. The learned counsel appearing for the petitioner submitted that the red sand was transported with valid permit and the petitioner has not committed any offence as alleged. However, a case has been falsely foisted against him only for statistical

purpose. On instructions, the learned counsel submitted that without prejudice to his rights and contentions, the petitioner is prepared to donate a considerable amount to charity and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed the petition stating that the petitioner has transported illegally mined red sand without having any valid license and hence, the respondent police had seized the vehicle with the smuggled red sand. He, however, submitted that there is no previous case pending against the petitioner.

5. In order to curb the illegal transportation of mines and minerals and taking into consideration of the voluntary submission made by the petitioner offering to donate a considerable amount for charity, this Court is of the opinion that the petitioner may be directed to donate a sum of Rs.10,000/- (Rupees Ten Thousand only) to charity without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner has donated some 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 and also considering the fact that there is no previous antecedents against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :-

(a) The petitioner is directed to donate a sum of Rs.10,000/- (Rupees Ten Thousand only) either in cash or demand draft or through RTGS/NEFT to the credit of A/c No. 0918101041798 maintained by Children Home for Boys Under Surabhi Trust, 22/10, 1st Street, Kumarasamy Nagar, Villivakkam, Chennai-600049 with Canara Bank (CNRB0000918), Villivakkam Branch, Chennai within fifteen (15) days from the date of receipt of a copy of this order. On such deposit, the petitioner is ordered to be released on bail in the event of arrest or his appearance before the learned District Munsif cum Judicial Magistrate, Vanur, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each 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, 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 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 were imposed and the petitioner has been released on bail by the learned Magistrate himself/Trial Court 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
25/02/2021

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
VANUR, VILLUPURAM DISTRICT.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
VANUR POLICE STATION,
VILLUPURAM DISTRICT.

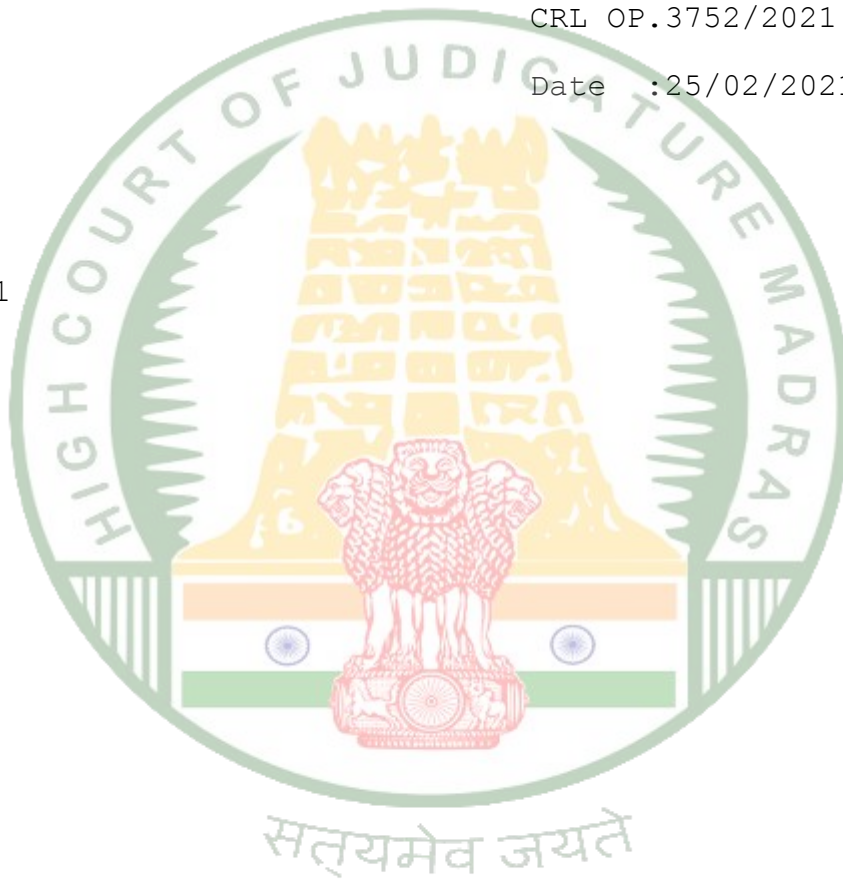
5 CHILDREN HOME FOR BOYS UNDER SURABHI TRUST,
22/10, 1ST STREET, KUMARASAMY NAGAR,
VILLIVAKKAM, CHENNAI - 600049,
(A/C.NO.0918101041798, IFSC NO.CNRB0000918)

CC to M/S.A.T.ANBU KUMAR Advocate on payment of necessary
charges

CRL OP.3752/2021

Date :25/02/2021

MN-09/03/2021



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