

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3888 of 2021

Ayyanar

... Petitioner

Vs.

The State Rep. by:-

The Station House Officer,
Villianur Police Station,
Villianur, Pondicherry.
(Crime No.34 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on anticipatory bail in the event of his arrest in Cr.No.34 of 2021 dated 17.02.2021, on the file of the respondent police.

For Petitioner : Mr.E.Anbarasan

For Respondent : Mr.V.Balamurugane,
PP for Puducherry

O R D E R

(The case has been heard through video conference)

The petitioner apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 of I.P.C. and Section 3(i) of Prevention of Damage to Public Property Act, 1984, in Crime No. 34 of 2021, on the file of the respondent police, and now, he has filed this petition seeking to grant anticipatory bail.

2. The case of the prosecution is that the petitioner is a owner of the tipper lorry. On the date of occurrence, while the respondent police was in regular ride, they found that the petitioner said to have engaged in sand theft from river bed without any valid permit within the limits of respondent police. Hence, the criminal case has been registered against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the offence. He would submit that he has been falsely implicated as accused in this case. On instruction, he would further submit that without prejudice to his right and contentions, he is prepared to deposit/pay some considerable amount to any charitable organization or association and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner has engaged sand theft from river bed in his tipper lorry illegally without having valid license. He would submit that there is no previous case pending against the petitioner. However, he opposed to grant anticipatory bail to the petitioner.

5. In order to curb the illegal engagement of sand theft from river bed and taking into consideration of the voluntary submission made by the petitioner offering to deposit or to pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to deposit/pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Samayavalli Thayar Anbu Illam, 148, 2nd Main Road, Swami Veivekananda Nagar, Near New Bridge, Bye-Pass Road, Ambur-635 802 A/c. No. 104301000020134, IFSC. No.LAVB0000104 (Mobile No.9443542078) without prejudice to his right and contention 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 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 pay a sum of Rs.10,000/- (Rupees Ten Thousand only) either through RTGS/NEFT or in cash in favour of Samayavalli Thayar Anbu Illam, 148, 2nd Main Road, Swami Veivekananda Nagar, Near New Bridge, Bye-Pass Road, Ambur-635 802 A/c. No. 104301000020134, IFSC. No.LAVB0000104 (Mobile No.9443542078), 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 his arrest or his appearance before the learned Judicial Magistrate No.III, Pondicherry, on condition that the petitioner 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, 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 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]

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
02/03/2021

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.III,
PONDICHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE,
PONDICHERRY [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
PONDICHERRY

4 THE STATION HOUSE OFFICER,
VILLIANUR POLICE STATION,
VILLIANUR, PONDICHERRY.

5 THE SAMAYAVALLI THAYAR ANBU ILLAM,
148, 2ND MAIN ROAD, SWAMI VEIVEKANANDA NAGAR,
NEAR NEW BRIDGE, BYE-PASS ROAD,
AMBUR-635 802 A/C. NO. 104301000020134,
IFSC. No.LAVB0000104 (Mobile No.9443542078)

CC to M/S. E.ANBARASAN Advocate on payment of necessary charges

CRL OP.3888/2021

Date :02/03/2021