

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the First day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.3945 of 2021

G.KABIRDAS

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
KODARACHERY POLICE STATION,
THIRUVARUR DISTRICT.
(CR.NO.1474/2020)

For Petitioner : M/S.P.MUTHAMIZHSELVAKUMAR Advocate

For Respondent : MR.S.KARTHIKEYAN, 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 Sections 379, 430 of IPC and 21(1) of Mines and Minerals (Development & Regulation) Act 1957, in Crime No.1474 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had illegally transported ½ unit of river sand by using Bolero van bearing Registration No.TN 50 S 3737, without any valid permission Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. 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 that the petitioner had illegally transported ½ unit of river sand by using Bolero van bearing Registration No.TN 50 S 3737, without any valid permission He would submit that the

respondent police seized the said vehicle and ½ unit of river sand. He further submitted that there is no previous case is pending as against 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 sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) as non refundable deposit to **'Samayavalli Thayar Anbu Illam, No.148, 2nd Main Road, Swami Vivekananda Nagar, Near New Bridge, Bye Pass Road, Ambur-635 802, The Lakshmi Vilas Bank', A/C.No.104301000020134, IFSC Code. No.LAVB0000104**, 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.5,000/- (Rupees Five Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of **'Samayavalli Thayar Anbu Illam, No.148, 2nd Main Road, Swami Vivekananda Nagar, Near New Bridge, Bye Pass Road, Ambur-635 802, The Lakshmi Vilas Bank', A/C.No.104301000020134, IFSC Code. No.LAVB0000104**, 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 Court, Thiruvarur District, 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/-
01/03/2021

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 COURT,
THIRUVARUR DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KODARACHERY POLICE STATION,
THIRUVARUR DISTRICT.

5 THE SAMAYAVALLI THAYAR ANBU ILLAM,
NO.148, 2ND MAIN ROAD, SWAMI VIVEKANANDA
NAGAR, NEAR NEW BRIDGE, BYE PASS ROAD, AMBUR-
635 802, THE LAKSHMI VILAS BANK.

+1 CC to M/S.P.MUTHAMIZHSELVAKUMAR Advocate on payment of
necessary charges SR.NO.2607

CRL OP.3945/2021

Date :01/03/2021

TA-09/03/2021

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