

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2021

CORAM

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

Cr1.O.P.No.4303 of 2021

DESIGA @ DEIVASIGAMANI

... Petitioner

Vs.

State by its
Inspector of Police
Cheyyar Police Station
Cheyyar, Thiruvannamalai District
(Crime No.3102 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioner on bail in the event of his arrest in Crime No.3102 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.K.G.Senthil Kumar

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

O R D E R

(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 Sections 379 and 430 of IPC read with 21(5) M.M. Act and Section 3 of TNPPDL Act in Crime No.3102 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Venkatesan, Spl. Sub Inspector of Police, is that on 22.09.2020 while he along with his party was on watch in respect of illegal sand mining, the petitioner along with other accused was found illegally transporting three units of river sand by using lorry bearing Regn.No.TN31 H 2147 without any valid permission. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that this is the second application for anticipatory bail and the earlier application was

dismissed by this Court in Crl.O.P.No.18128 of 2020 by order dated 19.11.2020 following the orders passed in Crl.O.P.No.13334 of 2020 etc. batch dated 03.09.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would vehemently oppose stating that the petitioner along with other accused was found transporting 3 units of river sand without obtaining permission from the Government and thereby, degraded the environment and caused damages to the ecology. He would further submit that the petitioner is a habitual offender and that he has got 51 previous cases to his credit and twice he has been detained under the Goondas Act. The details of previous cases are listed as follows;

Sl. No.	Station	Cr. No.	Sec PRO CASES	Stage of Case
1.	Cheyvar	1652/2005	41(i), 4(1)(aaa) r/w 4(1-A) ii TNP Act	PT (PRC 16/07)
2.	Cheyvar	127/2006	4(1)(i), 4(1)(aaa) r/w 4(1-A) ii TNP Act	UI
3.	Cheyvar PEW	124/2006	4(1)(aa) TNP Act	UI (absconding)
4.	Cheyvar PEW	144/2006	4(1)(aa) TNP Act	UI (absconding)
5.	Cheyvar PEW	371/2006	4(1)(i) (aaa) TNP Act	UI (absconding)
6.	Cheyvar PEW	482/2006	4(1)(i) (aaa) TNP Act	UI (absconding)
7.	Cheyvar	1185/2006	4(1)(aaa) r/w 4(1-A) ii TNP Act	UI
8.	Cheyvar	1203/2006	4(1)(aaa) r/w 4(1-A) ii TNP Act	UI
9.	Cheyvar	1345/2006	4(1)(aaa) r/w 4(1-A) ii TNP Act	UI
10.	Cheyvar PEW	86/2007	4(1)(i) (aaa) TNP Act	UI
11.	Cheyvar PEW	859/2007	4(1)(i) (aaa) TNP Act	UI (absconding)
12.	Cheyvar PEW	46/2008	4(1)(i) (aaa) TNP Act	UI (absconding)
13.	Anakkavur	200/2008	4(1)(aaa) r/w 4(1-A) ii TNP Act @ 6 of R.S Rules	UI
14.	Cheyvar	209/2008	4(1)(i) r/w 4(1-A) ii TNP Act	UI (absconding)

Sl. No.	Station	Cr. No.	Sec	Stage of Case
PRO CASES				
15.	Cheyvar	210/2008	4(1) (i) r/w 4(1-A) ii TNP Act	UI (absconding)
16.	Cheyvar PEW	325/2008	4(1) (i) (aaa) r/w 4(1-A) ii TNP Act	UI
17.	Cheyvar PEW	510/2008	4(1) (i) (aaa) r/w 4(1-A) ii TNP Act & 5, 7 of R.S. Rules	UI
18.	Cheyvar	71/2009	4(1) (aaa) r/w 4(1-A) ii TNP Act	UI
19.	Cheyvar	916/2009	4(1) (aaa) r/w 4(1-A) ii TNP Act	UI
20.	Cheyvar PEW	64/2010	4(1) (a) r/w 4(1-A) ii TNP Act	UI
21.	Cheyvar PEW	186/2010	4(1) (aaa) r/w 4(1-A) ii TNP Act @ 6 of R.S Rules	UI
Sl. No.	Station	Cr. No.	Sec	Stage of Case
OTHER IPC CASES				
22.	Cheyvar PEW	1219/2004	147, 148, 324, 323, 294 (b), 506(ii) IPC @ 147, 148, 324, 323 & 302 IPC	PT (PRC 13/2005 & Sc.02/2006)
23.	Cheyvar	930/2005	294(b), 323, 506(i) IPC	Acquitted u/S.248 (i) Cr.P.C
24.	Cheyvar	169/2007	294(b), 323, 506(i) IPC	PT (CC.105/2007)
25.	Cheyvar	697/2008	294(b), 355, 506(i) IPC	Acquitted on 10.07.2015
26.	Cheyvar	707/2008	147, 148, 294(b), 379, 506(i) IPC	Acquitted on 24.08.2012
27.	Moranam	268/2009	294(b), 341, 506(i) IPC	NTF
28.	Cheyvar	149/2010	147, 384 IPC	Conviction fined Rs.1000/- on 08.07.2012
29.	Cheyvar	496/2010	147, 148, 324, 307 IPC	NTF
30.	Cheyvar	503/2010	147, 148, 323, 324, 341, 307 IPC	PT
31.	Cheyvar	1119/2010	294(b), 323, 342, 3379, 506(ii) IPC	Acquitted on 25.07.2012
32.	Cheyvar	1125/2010	294(b), 341, 323, 417, 420, 506(ii) IPC	Acquitted on 08.07.2017

Sl. No.	Station	Cr. No.	Sec	Stage of Case
33.	Cheyvar	1452/2010	294(b), 341, 323, 417, 420, 506(ii) IPC	Acquitted on 08.07.2017
34.	Anakkavur	41/2011	447, 379, 506(ii) IPC	Acquitted on 24.06.2015
35.	Cheyvar	838/2011	294(b), 506(ii) IPC and 3 of PPDL Act	PT
36.	Cheyvar	865/2011	294(b), 341, 506(ii), 307 IPC	PT
38.	Vandavas i North P.S	48/2013	147, 148, 353, 307 IPC	NTF
39.	Cheyvar	398/2013	341, 294(b), 506(ii) IPC r/w 4 of WH Act	UI
40.	Cheyvar	19/2014	143, 188 IPC	UI
41.	Cheyvar	32/2014	147, 148, 153(A), 324, 506(ii) IPC & 3 of PPDL Act	UI
42.	Cheyvar	39/2014	147, 148, 324, 506(ii) IPC r/w 3 of PPDL Act	UI

Sl. No.	Station	Cr. No.	Sec	Stage of Case
SAND CASE DETAILS				
43.	Cheyvar	885/2018	379, 430 IPC	UI
44.	Cheyvar	906/2018	379, 430 IPC r/w 3 of PPDL Act	UI
45.	Cheyvar	963/2018	379, 430 IPC r/w 3 of PPDL Act	UI
46.	Cheyvar	1009/2018	379, 430 IPC r/w 3 of PPDL Act	UI
47.	Cheyvar	88/2020	379, 430 IPC r/w 21(5) MM Act and 3 of PPDL Act	UI
48.	Cheyvar	1307/2020	379, 430 IPC r/w 21(5) MM Act and 3 of PPDL Act	UI
49.	Cheyvar	3102/2020	379, 430 IPC r/w 21(5) MM Act and 3 of PPDL Act DR:24.09.20	UI

Sl. No.	Station	Cr. No.	Sec	Stage of Case
50.	Moranam	1853/2020	379, 430 IPC r/w 21(5) MM Act and 3 of PPDL Act DR:24.09.20	UI
51.	Anakkavoor	2372/2020	379, 430 IPC r/w 21(5) MM Act and 3 of PPDL Act DR:24.09.20	UI

Goondas Case Details:

1.Vellore District Ranipet PEW Cr.No.416/2014 U/S 4(!) (a), 4(1-A) ii TNP Act @ 6, 7 of TNRS Rules & 36, 66 Tamil Nadu Excise Act r/w 420 IPC.D.O No.110/2014 dated 27.12.2014.

2.Cheyyar P.S. Cr. No.865/2011 u/s.294(b), 341, 506(ii), 307 IPC D.O No.02/2012, Dated 28.01.2012.

5. This Court on the earlier occasion in Crl.O.P.No.18128 of 2020 by order dated 19.11.2020, 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 Batch etc. 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.

6. Accordingly, this Court takes into consideration, the role assigned to the petitioner in the present case. In this case on hand, it is seen that the petitioner along with other accused has committed theft of three units of river sand and transported the same without any valid permission from the Government. Further, the petitioner is a habitual offender and has got 51 previous cases to his credit and thereby, this Court is of the opinion that the petitioner is not entitled for grant of anticipatory bail.

7. Accordingly, this Criminal Original Petition is dismissed.

-sd/-

08/03/2021

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

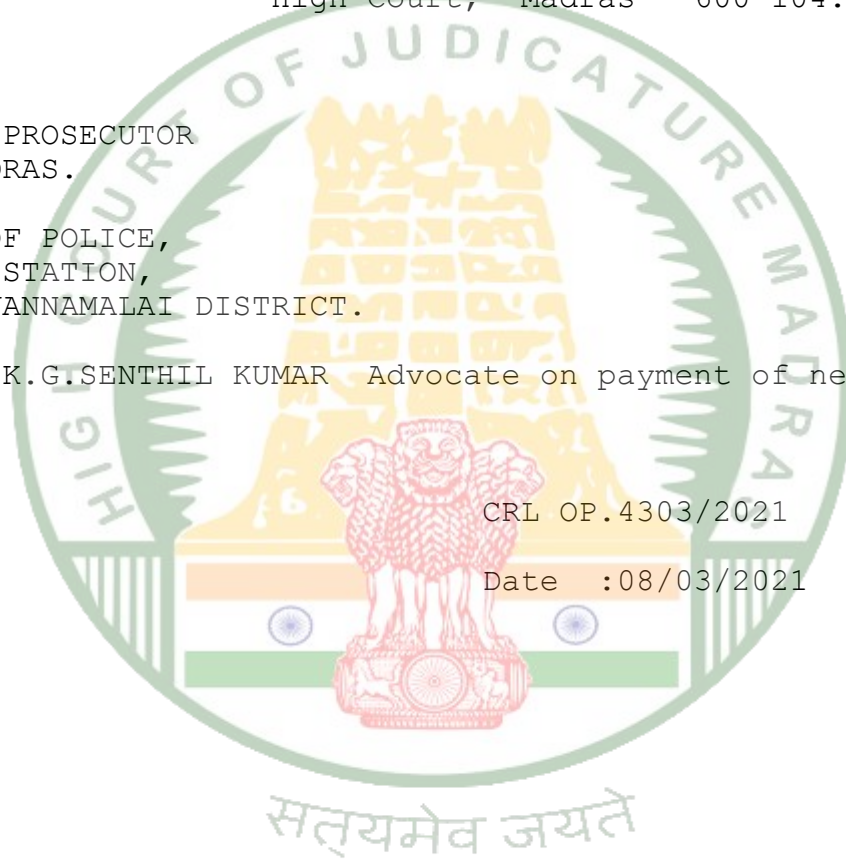
2 INSPECTOR OF POLICE,
CHEYYAR POLICE STATION,
CHEYYAR, THIRUVANNAMALAI DISTRICT.

CC to M/S.K.G.SENTHIL KUMAR Advocate on payment of necessary
charges

CRL OP.4303/2021

Date :08/03/2021

rvr 31/03/2021



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