

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.4460 of 2021

1. K.Karthik
2. K.Elumalai

... Petitioners

-Vs-

State by

The Inspector of Police,
Thalambur Police Station,
Chengalpattu.
(Crime No.35 of 2021)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioners on anticipatory bail in Crime No.35 of 2021 in the event of their arrest, pending investigation on the file of the respondent police.

For Petitioners : Mr.T.Shanmugaboopathi

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(This Case has been heard through Video Conferencing)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 and 430 of IPC, in Crime No.35 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners along with other accused persons had illegally transported 6 units of sand by using three lorries bearing Nos.TN 21 L 4279, TN 18 K 3789 and TN 04 AA 3844, without any valid permission. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that co-accused has already been granted anticipatory bail by this Court in Crl.O.P.No.3394 of 2021 dated 26.02.2021. On instruction, he would further submit that the petitioners are prepared to deposit some considerable amount to any charitable organization or association without prejudice to their contention and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners along with other accused persons had transported 6 units of sand by using three lorries bearing Nos. TN 21 L 4279, TN 18 K 3789 and TN 04 AA 3844, without any valid permission. He would further submit that co-accused has already been granted anticipatory bail by this Court in Crl.O.P.No.3394 of 2021 dated 26.02.2021. He would submit that the respondent police have seized the said vehicles along with six units of sand. He further submitted that there is no previous case pending as against these petitioners.

5. It is seen that there is no previous case pending as against these petitioners and in order to curb the illegal sand mining activities, this Court is of the opinion that each of the petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand Only) as non refundable deposit to "Good Convent Social Service, Society Reg No.55/1959, Corporation Bank, Nungambakkam, Chennai, A/C.No.520101001284955, IFSC Code. No.CORP0000577" without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their 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 petitioners with certain conditions.

(a) each of the petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of "Good Convent Social Service, Society Reg No.55/1959, Corporation Bank, Nungambakkam, Chennai, A/C.No.520101001284955, IFSC Code. No.CORP0000577" and on such payment and production of proof of deposit of the above amount, they shall be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.I, Chengalpattu, on condition that the petitioners shall execute a separate 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 petitioners 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 petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 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 petitioners 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-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 JUDICIAL MAGISTRATE NO.I,
CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THALAMBUR POLICE STATION,
CHENGALPATTU

5 GOOD CONVENT SOCIAL SERVICE,
SOCIETY REG NO.55/1959,
CORPORATION BANK, NUNGAMBAKKAM,
CHENNAI, A/C.NO.520101001284955,
IFSC CODE. NO.CORP0000577

+2CC to M/S.T.SHANMUGABOOPATHI Advocate on payment of necessary
charges SR NO.2978

CRL OP.4460/2021

Date :08/03/2021

MK:17/03/2021



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