

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Tenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.4639 of 2021

DESIGA @ DEIVASIGAMANI

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

INSPECTOR OF POLICE,
CHEYYAR POLICE STATION,
CHEYYAR,
THIRUVANNAMALAI DISTRICT.
CRIME NO.3107/2020

For Petitioner : M/S.K.G.SENTHILKUMAR Advocate

For Respondent : M/S.C.IYYAPPARAJ, 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 and 430 IPC r/w 21(5) M.M.Act and Sec.3 of TNPPDL Act in Crime No.3107 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Mani, Special Sub Inspector of Police is that on 23.09.2020 while he along with his party was on watch in respect of illegal sand mining, a lorry bearing registration No.TN 28 BC 7814 was parked in a suspicious manner and on search, it was found to contain two units of river sand and on seeing the police, the accused ran away from the scene of occurrence. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case based on the confession recorded from the other accused. He would submit that the petitioner has reformed and that he was engaged in the business of transporting rice by using lorry whereas, a false complaint has been foisted against the petitioner in order to detain him. He would further submit that this is the second application for

anticipatory bail and the earlier application was dismissed by this Court vide CrI.O.P.No.18118 of 2020 by order dated 19.11.2020 following the orders passed in CrI.O.P.No.13334 of 2020 etc., batch dated 03.09.2020. Hence, he would pray 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 two units of river sand illegally 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 History Sheeter, involved in various kinds of offences and that he has got 51 previous cases to his credit. He would further submit that the petitioner was also detained twice under the Goondas Act. The details of previous cases are listed as follows;

Cheyar Police Station H.S.No.415/k1

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

Sl. No.	Station	Cr. No.	Sec PRO CASES	Stage of Case
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)
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

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

OTHER IPC CASES

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
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
37.	Cheyvar	866/2011	294(b), 353, 506(i) IPC	Conviction fined Rs.1,500/- on 08.07.2
38.	Vandavasi 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

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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
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(1) (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.Cheyvar 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 CrI.O.P.No.18118 of 2020 by order dated 19.11.2020, following the orders passed by this Court in a batch of applications in CrI.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 two units of river sand and transported the same without obtaining permission from the Government. Further, the petitioner is a habitual offender involved in various kinds of offences and that he has got 51 previous cases to his credit and he has been detained twice under the Goondas Act. 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/-

10/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned
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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE INSPECTOR OF POLICE,
CHEYYAR POLICE STATION,
CHEYYAR, THIRUVANNAMALAI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.4639/2021

Date :10/03/2021

cs 31/03/2021