

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 V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.4664 of 2021

ELANGO VAN

[PETITIONER / ACCUSED]

Vs

STATE REP.,
THE INSPECTOR OF POLICE,
PACHAL POLICE STATION,
TIRUVANNAMALAI DISTRICT,
CR.NO. 2632 OF 2020.

[RESPONDENT]

For Petitioner : M/S.KA.PRABAHARAN 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 case has been heard through video conference)

The petitioner, who apprehend arrest at the hands of the respondent police in connection with a case registered in Crime No.2632 of 2020 for the alleged offence punishable under sections 379 and 430 of IPC, r/w 21(1) of The Mines and Minerals (Development and Regulations) ACT, 1957, seeks anticipatory bail.

2. The case of the prosecution is that on 09.10.2020 at about 06.00 a.m., while the respondent police was on routine raid, an unregistered Tractor was found transporting one unit of illegally mined sand from the river bed and the petitioner was found to be the owner of the vehicle. Hence, a criminal case to be registered on a complaint from the Sub Inspector of Police. The police had seized the vehicle with the smuggled sand.

3. The learned counsel appearing for the petitioner submitted that the petitioner is innocent of the alleged offence and he is no way connected with the offence. He further submitted that he have been falsely implicated as accused in this case. The petitioner is ready to abide by any conditions that may be imposed by this court in the event of granting anticipatory bail. The learned counsel further, on instructions, submitted that without prejudice to his rights and contentions, the petitioner is prepared to donate a considerable amount to charity and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed the petition stating that the petitioner has indulged in transportation of illegally quarried sand without having a valid license and hence, the respondent police had seized the vehicle with the smuggled sand. He, however, submitted that there is no previous case pending against the petitioner.

5. In order to curb the illegal transportation of mines and minerals and taking into consideration of the voluntary submission made by the petitioner offering to donate a considerable amount for charity, this Court is of the opinion that the petitioner may be directed to donate a sum of Rs.10,000/- (Rupees Ten Thousand only) to charity without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner has donated some 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 shall donate a sum of Rs.10,000/- (Rupees Ten Thousand only) either in cash or demand draft or through any other electronic mode to the credit of A/c 974101551807 maintained by Sittar Koodam, Num Kulandhaigal Illam, 9/24, Arutpa Nagar, Kallikudi, Madurai District, with Canara Bank [IFSC - CNRB0000974] Anna Nagar Branch, Chennai, 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 arrest or his appearance before the learned Principal District and Sessions Judge, Tiruvannamalai, on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each 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 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 were imposed and the petitioner has been released on bail by the learned Magistrate himself/Trial Court 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.

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

-sd/-
10/03/2021

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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
TIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PACHAL POLICE STATION,
TIRUVANNAMALAI DISTRICT.

4 SITTAAR KODAM, NUM KULANDHAIGAL ILLAM,
9/24, ARUTPA NAGAR, KALLIKUDI,
MADURAI DISTRICT, WITH CANARA BANK
[IFSC - CNRB0000974] ANNA NAGAR BRANCH,
CHENNAI

+1CC to M/S.KA.PRABAHARAN Advocate on payment of necessary charges SR NO.3172

CRL OP.4664/2021

Date :10/03/2021

MK:17/03/2021