

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.4793 of 2021

1 AYYANAR [PETITIONERS / ACCUSED]
2 MOHAMED RAHIM

Vs

THE STATE REP BY [RESPONDENT / COMPLAINANT]
THE INSPECTOR OF POLICE,
MAILAM POLICE STATION,
VILLUPURAM DISTRICT.
CRIME NO. 219 OF 2021

For Petitioner : M/S.D.LAKSHMIPATHY Advocate

For Respondent : M/S. 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 petitioners, who apprehend arrest at the hands of the respondent police in connection with a case registered in Crime No.219 of 2021 for the alleged offence punishable under Sections 379 of IPC and Section 21(1) of The Mines and Minerals (Development and Regulations) Act, 1957, seek anticipatory bail.

2. The case of the prosecution is that on 28.02.2021 at 08.00 a.m., while the respondent police was on regular raid, lorries bearing Regn. Nos.TN 22 BS 0245 and TN 33 AH 1555 were found transporting five units of illegally mined red sand. Hence, a criminal case has been registered on a complaint from the Spl. Dy. Tahsildar (Mines). The police had seized the vehicles with the smuggled red sand.

3. The learned counsel appearing for the petitioners submitted that the petitioners are an innocents and they are no way connected with the offence. He further submitted that they have been falsely implicated as accused in this case. However, on instructions, he submitted that without prejudice to their rights and contentions, they are 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 petitioners have indulged in transportation of illegally quarried red sand without valid permit and hence, the respondent police had seized the vehicles with the smuggled red sand. He, however, submitted that there is no previous case pending against the petitioners.

5. In order to curb the illegal transportation of mines and minerals and taking into consideration of the voluntary submission made by the petitioners offering to donate a considerable amount for charity, this Court is of the opinion that the petitioners may be directed to donate a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) jointly to charity without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioners have donated some 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 and also considering the fact that there is no previous antecedents against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :-

(a) The petitioners are directed to donate a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) jointly either in cash or demand draft or through RTGS/NEFT 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 petitioners are ordered to be released on bail in the event of arrest or their appearance before the learned Judicial Magistrate-II, Tindivanam, on each of them 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 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 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 were imposed and the petitioners have 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 JUDICIAL MAGISTRATE-II,
TINDIVANAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
VILLUPURAM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MAILAM POLICE STATION,
VILLUPURAM DISTRICT.

5 SITTA KODAM, NUM KULANDHAIGAL ILLAM,
9/24, ARUTPA NAGAR, KALLIKUDI, MADURAI DISTRICT,
CANARA BANK, ANNA NAGAR BRANCH, CHENNAI
(A/C.NO.974101551807, IFSC NO.CNRB0000974)

CC to M/S.D.LAKSHMIPATHY Advocate on payment of necessary charges

CRL OP.4793/2021

Date :10/03/2021