

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4860 of 2021

1. Kumar @ Selvakumar ... Petitioners
2. Gunasekar @ Gunasekaran

Vs.

State rep. By ...Respondent
The Inspector of Police,
Kanakamma Chatram Police Station,
Tiruvallur District.
(Crime No.63 of 2021)

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail, in the event of their arrest in Crime No.63 of 2021 pending investigation on the file of the respondent police.

For Petitioners : Mr.C.S.Saravanan
For Respondent : Mr. S.Karthikeyan,
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 & 430 of IPC and Section 21(1) of Mines & Minerals (Development & Regulation) Act, 1957 in Crime No.63 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported 4 bags with 25 Kgs of river sand by using the vehicles bearing Registration Nos.TN 21 AU 7081 Passion Pro and TN 20 CH 0171 Honda Activa, without any valid permission. Hence, a complaint was registered.

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 the petitioners never indulged in any such offence as alleged by the prosecution. Hence, he prayed for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners had illegally transported 4 bags with 25 Kgs of river sand by using the vehicles bearing Registration Nos.TN 21 AU 7081 Passion Pro and TN 20 CH 0171 Honda Activa, without any valid permission. He further submitted that there is one previous case pending as against the petitioners. However, he opposed for grant of anticipatory bail to the petitioners.

5.Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

6.Considering the facts and circumstances of this case, this Court is inclined to grant anticipatory bail to the petitioners with the following conditions:

[a] the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thiruthani, on executing a separate 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:

[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 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 are 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
15/03/2021

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,
THIRUTTANI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KANAKAMMA CHATRAM POLICE STATION,
TIRUVALLUR DISTRICT.

+1 CC to M/S.C.S.SARAVANAN Advocate on payment of necessary charges SR.NO.3476

CRL OP.4860/2021

Date :15/03/2021

TA-23/03/2021

WEB COPY