

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.5387 of 2021

1. Gothandapani  
2. Muniyan

... Petitioners

Vs.

The State Rep. by  
The Sub-Inspector of Police,  
Ulundurpet Police Station,  
Kallakurichi Dt.  
(Crime No.145 of 2021)

... Respondent

**PRAYER:** Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No. 145 of 2021 pending investigation on the file of the Respondent.

For Petitioners : Mr.S.Saravana Kumar

For Respondent : Mr.S.Karthikeyan  
Addl. Public Prosecutor

**ORDER**

**(The case has been heard through video conference)**

The petitioners are arrayed as A1 and A2. The petitioners apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of I.P.C., in Crime No. 145 of 2021, on the file of the respondent police, and now, they have filed this petition seeking to grant anticipatory bail.

2. The case of the prosecution is that the 1<sup>st</sup> petitioner is a owner and the 2<sup>nd</sup> petitioner is driver of the vehicle. On the date of occurrence, the 2<sup>nd</sup> petitioner is said to have procured pebbles in JCB at Government Poramboke land, Pachaivelli village without valid permit from the Government and he has escaped from the scene of occurrence. Hence, the criminal case has been registered against the petitioners and now, apprehending arrest, this petition has been filed seeking for anticipatory bail.

3. The learned counsel appearing for the petitioners submitted that they are innocent persons and they are no way connected with the offence. He would submit that the 1<sup>st</sup> petitioner being owner of the vehicle and 2<sup>nd</sup> petitioner being driver cum a JCB, they have been falsely implicated as accused in this case. On instruction, he would further submit that without prejudice to their rights and contentions, they are prepared to deposit/pay some considerable amount to any charitable organization or association and prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the 1<sup>st</sup> petitioner is the owner and 2<sup>nd</sup> petitioner is driver of a tractor with JCB and they have procured pebbles in their vehicle illegally without having valid license. He would submit that on seeing the police, the petitioners ran away from the scene of occurrence. He would submit that there is no previous case pending against the petitioners. However, he opposed to grant anticipatory bail to the petitioners.

5. In order to curb the illegal transportation of sand and taking into consideration of the voluntary submission made by the petitioners offering to deposit or to pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners may be directed to deposit/pay a sum of **Rs.5,000/- (Rupees Five Thousand only)** to the **Kaakum Karangal, ICICI, Santhome High Road, Santhome Branch, Chennai-600 028, A/c.No.000101219273 IFSC.No. ICIC0003432**, 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 and also considering the fact that there is no previous antecedents against the petitioners, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :-

(a) The petitioners are directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) either through RTGS/NEFT or in cash in favour of **Kaakum Karangal, ICICI, Santhome High Road, Santhome Branch, Chennai-600 028, A/c.No.000101219273 IFSC. No.ICIC0003432**, 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 their arrest or their appearance before **the learned Judicial Magistrate-I, Ulundurpet Taluk, Kallakurichi Dt.**, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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 sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

**[c] the petitioners shall appear 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 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.

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

-sd/-  
18/03/2021

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-I,  
ULUNDURPET TALUK,

2 THE CHIEF JUDICIAL MAGISTRATE  
VILLUPURAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,  
ULUNDURPET POLICE STATION,  
KALLAKURICHI DISTRICT.

5 THE KAAKUM KARANGAL, ICICI,  
SANTHOME HIGH ROAD, SANTHOME BRANCH, CHENNAI-  
600 028, A/C.NO.000101219273 IFSC. NO.ICIC0003432,

+1 CC to M/S.S.SARAVANA KUMAR Advocate on payment of necessary  
charges SR.NO.3635

CRL OP.5387/2021

Date :18/03/2021

TA-29/03/2021



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