

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fifteenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.4981 of 2021

R.DIVAKAR @ DHIVAKAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY
INSPECTOR OF POLICE,
VIRUTHAMPET POLICE STATION,
VELLORE DISTRICT.
CRIME NO.1032 OF 2020.

[RESPONDENT]

For Petitioner : M/S. M.SATHISH KUMAR 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 petitioner apprehending arrest at the hands of the respondent police for the alleged offence under Sections 379 and 430 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, in Crime No.1032 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that when the defacto complainant with his subordinates were conducting routine check-up, they intercepted the two wheeler of the petitioner and on inspection they found 75 kg of river sand without any valid permit. Hence, the respondent police registered a case against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner is innocent and he is in no way connected with the offence. He further submitted that he has been falsely implicated as accused in this case. Hence he 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 river sand without having any valid license and hence, the respondent police had seized the two wheeler with the smuggled sand.

5. Considering the facts and circumstances of the case, and the fact that the petitioner has no previous antecedents, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions :

(a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-III, Vellore, on condition that the petitioner shall execute a 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, failing which, the petition for anticipatory bail shall stand dismissed 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 Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

(c) The petitioner shall appear before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for 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 have been imposed and the petitioner 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.

6. 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 NO.III,
VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VIRUTHAMPET POLICE STATION,
VELLORE DISTRICT.

+1CC to M/S. M.SATHISH KUMAR Advocate on payment of
necessary charges SR NO.3430

CRL OP.4981/2021

Date :15/03/2021

MK:26/03/2021

WEB COPY