

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.5043 of 2021

JOTHI

[PETITIONER / ACCUSED]

Vs

STATE REP.BY ITS
THE INSPECTOR OF POLICE,
ARNI TALUK POLICE STATION,
TIRUVANNAMALAI DISTRICT.
CR.NO.71 OF 2021.

[RESPONDENT]

For Petitioner : M/S.G.P.SIVAKUMAR 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 and Section 21(1) of Mines and Minerals (Development and Regulation) Act, in Crime No.71 of 2021 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 Tractor and Trailer of the petitioner and on inspection they found 1 unit 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. However, on instructions, he submitted that without prejudice to his rights and contentions, he 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 sand without having any valid license and hence, the respondent police had seized the vehicle with the smuggled sand. He further submitted that he has one previous case.

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.15,000/- (Rupees fifteen Thousand only) to charity without prejudice to his rights and contentions before the trial Court. 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.

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

(a) The petitioner is directed to deposit a sum of Rs.15,000/- (Rupees fifteen Thousand only) to the credit of "Awake Trust", Dindigul, having account at Bank of Baroda, Dindigul Branch, (A/c.No.75060100006955, IFSC No.BARBODINDIG), within fifteen (15) days from the date of receipt of a copy of this order without prejudice to his rights and contentions before the trial Court.

(b) On such deposit, 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, Arani**, 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:

(c) 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.

(d) 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.

(e) The petitioner shall not tamper with evidence or witness either during investigation or trial.

(f) The petitioner shall not abscond either during investigation or trial.

(g) 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]**.

(h) 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/-

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,
ARANI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ARNI TALUK POLICE STATION,
TIRUVANNAMALAI DISTRICT.

5 THE AWAKE TRUST, DINDIGUL,
BANK OF BARODA, DINDIGUL BRANCH, (A/C.NO.
75060100006955, IFSC NO.BARBODINDIG),

+1 CC to M/S.G.P.SIVAKUMAR Advocate on payment of necessary charges SR.NO.3376

CRL OP.5043/2021

Date :15/03/2021

TA-30/03/2021