

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.03.2021

CORAM

THE HON'BLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5223 of 2021

S.Dhanasekaran

... Petitioner

Vs.

The State

Rep by The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.
(Cr.No.1254 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioner on bail in the event of his arrest in Crime No.1254 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Baskaran

For Respondent : Mr.T.Shunmuga Rajeshwaran
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 379, 430 of IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act 1957 in Crime No.1254 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant, V.Annadurai, Sub Inspector of Police, Kandamangalam P.S. is that on 21.09.2020 at about 2 p.m. when he along with his police party were keeping a watch near the river bed in respect of illegal sand mining, the petitioner along with four other accused were found taking Savudu Sand by using JCB bearing Regn.No.TN32AL 8649 and 3 Tractors bearing Regn.Nos. TN25AA 3973, TN32E 7565 and TN49K 0919 without any permit or license from the Government. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that this is the second application for anticipatory bail and the earlier application was dismissed by this Court in Crl.O.P.No.17603 of 2020 by order dated 10.11.2020. Hence, he would seek for anticipatory bail.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner along with other accused was found taking Savudu Sand

from the river bed by using JCB and 3 Tractors without any license or permission from the Government and on search, the Tractors were found to contain Savudu Sand each and thereby, commercially exploited the natural resources. He would further submit that the earlier application in Crl.O.P.No.17603 of 2020 filed by the petitioner seeking for anticipatory bail was dismissed by this Court on 10.11.2020 following the orders passed by this Court in Crl.O.P.No.13334 of 2020 etc. Batch dated 03.09.2020 and there is no change in circumstances after the dismissal of the earlier application. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. This Court on the earlier occasion in Crl.O.P.No.17603 of 2020 by order dated 10.11.2020, following the orders passed by this Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier application. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the Court should take into consideration the role assigned to the person on case to case basis.

6. Accordingly, this Court takes into consideration, the role assigned to the petitioner in the present case. In this case on hand, it is seen that the petitioner along with four other accused has committed theft of 3 units of Savudu Sand by using JCB and 3 Tractors for commercial purpose without any valid permit from the Government and thereby, caused damage to the environment and there is no change in circumstances after the dismissal of the earlier application. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

-sd/-

24/03/2021

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,
VILLUPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CC to M/S.R.BASKARAN Advocate on payment of necessary charges

CRL OP.5223/2021

Date :24/03/2021

MN-15/04/2021



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