

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Nineteenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.5452 of 2021

ARUL

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
EDAPPADY POLICE STATION,
SALEM DISTRICT.
CR.NO.537 OF 2019.

[RESPONDENT]

For Petitioner : M/S.S.V.KARTHIKEYAN Advocate

For Respondent : MR.S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL 438 Cr.P.C.

ORDER : The Court Made the following order :-

ORDER

(The case has been heard through video conference)

The petitioner, who apprehend arrest at the hands of the respondent police in connection with a case registered in Crime No.537 of 2019 for the alleged offence punishable u/s 379 of IPC and Section 21(1) of The Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957, seeks anticipatory bail.

2. The case of the prosecution is that on 26.11.2019, when the respondent police was on routine raid, a lorry bearing Regn. No. TN 52 T 1247 was found transporting four units of illegally mined sand (ordinarily used for making bricks). The petitioner is stated to be the owner of the vehicle. Hence, a criminal case came to be registered on a complaint from the Sub Inspector of Police against driver, cleaner and the owner of the lorry. The police had seized the lorry with the illegally quarried sand.

3. The learned counsel appearing for the petitioner submitted that the petitioner is innocent of the alleged offence and he is no way connected with the offence. He further submitted that he has been falsely implicated as accused in this case. The petitioner is

ready to abide by any conditions that may be imposed by this court in the event of granting anticipatory bail. The learned counsel further, on instructions, submitted that without prejudice to his rights and contentions, the petitioner 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 illegally quarried sand without having a valid license and hence, the respondent police had seized the vehicle with the illegally quarried sand. He, however, submitted that there is no previous case pending against the petitioner.

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.40,000/- (Rupees Forty Thousand only) to charity without prejudice to his rights and contentions before the trial Court.

6. 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.

7. Taking note of the facts and circumstances and also considering the fact that there is no previous antecedents against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :-

(a) The petitioner shall donate a sum of Rs.40,000/- (Rupees Forty Thousand only) either in cash or demand draft or through any other electronic mode to the **credit of A/c 1026101033653 maintained by Sri Saratha Devi Anbu Illam (Contact No. 9791584495) with Canara Bank (IFSC CNRB0001026), Kanniyakumari Branch**, within fifteen (15) days from the date of receipt of a copy of this order and on such deposit, the petitioner is ordered to be released on bail in the event of arrest or his appearance before the learned Judicial Magistrate cum District Munsif, Edappady, on his executing a 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, 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 respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police as and when required for the 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 were imposed and the petitioner has been released on bail by the learned Magistrate himself/Trial Court 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.

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

-sd/-

19/03/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, EDAPPADY.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
EDAPPADY POLICE STATION,
SALEM DISTRICT.

5 THE SRI SARATHA DEVI ANBU ILLAM (CONTACT NO.
9791584495) WITH CANARA BANK (IFSC
CNRB0001026), KANNIYAKUMARI BRANCH,

+1 CC to M/S.S.V.KARTHIKEYAN Advocate on payment of necessary charges SR.NO.3762

CRL OP.5452/2021

Date :19/03/2021