

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM

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

Crl. O.P. No. 9019 of 2021

1. Kalaivanan

2. Arokiya Rajesh ... Petitioners/Accused

-VS-

State Rep. by its
Inspector of Police,
S-6, Sankar Nagar P.S.,
Pammal, Chennai - 600 075.

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, 1973, praying to enlarge the Petitioners on bail in the event of their arrest in F.I.R. No. 908 of 2020 on the file of the Respondent Police.

For Petitioner : Mr. J.Thomas

For Respondent : Mr. L.Baskaran,
Counsel appearing for Government

ORDER

(The case has been heard through video conference)

The Petitioners, who apprehend arrest at the hands of the Respondent Police for the offence punishable under Section 379 of the Indian Penal Code,

1860 and 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No. 908 of 2020 on the file of the Respondent Police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant, the Inspector of Police is that while he was on his usual rounds found that the Petitioners had taken 3 units of riven sand in a Tipper Lorry bearing Registration No. TN 63 E 5694 without any valid permit. Hence, the complaint.

3. The Learned Counsel for the Petitioners would submit that this is the third application for anticipatory bail and the earlier application in Crl. O.P. No.14677 of 2020 was dismissed on 21.09.2020 and the second application for anticipatory bail in Crl. O.P. No. 3452 of 2020¹ was dismissed as withdrawn on 04.03.2021. He would further submit that the Petitioners have not committed any offence as alleged by the prosecution. Hence, he prays for grant of anticipatory bail to the Petitioners.

4. The Learned Counsel appearing for the Government would submit that the Petitioners without obtaining permission from the Government, had dug the land and taken sand and had attempted to transport the same by using Tipper

Lorry and thereby, degraded the environment and caused damages to the ecology. He would further submit that the Tipper Lorry bearing Registration No. TN 63 E 5694 was seized at the scene of occurrence. He would reiterate that that Petitioners have involved in commercial exploitation of sand. Hence, he vehemently opposed for the grant of anticipatory bail to the Petitioners.

5. Heard the Learned Counsels and perused the earlier dismissal orders dated 21.09.2020 and 04.03.2021.

6. This Court on the earlier occasion in Crl. O.P. No. 14677 of 2020 dated 21.09.2020, 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 etc., batch 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, the role assigned to the Petitioners is that the Petitioners have dug the land and taken sand and have attempted to transport the same by using Tipper Lorry without any valid permit. Further, the Petitioners are involved in commercial exploitation of sand. Therefore, this Court is not inclined to grant anticipatory bail to the Petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

21.06.2021

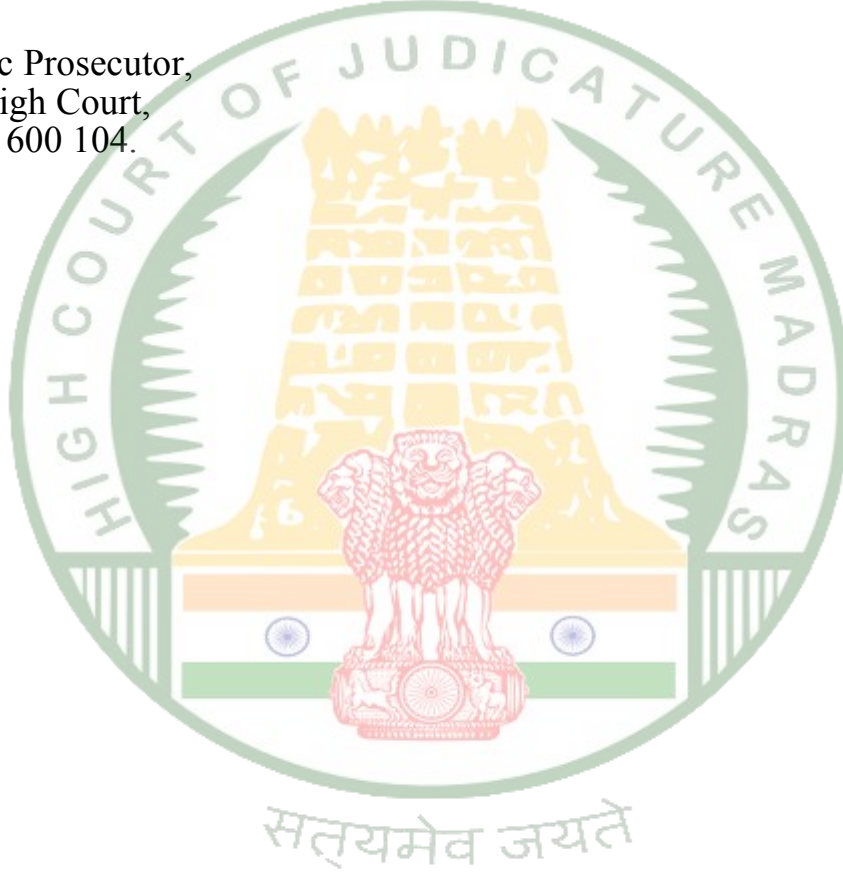
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Index: Yes/No

Internet: Yes/No

To

1. The Inspector of Police,
S-6, Sankar Nagar P.S.,
Pammal, Chennai - 600 075.
2. The Judicial Magistrate - II,
Tambaram.
3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.



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A.D. JAGADISH CHANDIRA, J.

vjt



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