

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.04.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.7278 of 2021

Krishnamoorthi

... Petitioner

Vs.

The State Rep. by
Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.
(Crime No.1041 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.1041 of 2020 pending on the file of the respondent.

For Petitioner : Mr.J.Jawahar

For Respondent : Mr.K.Madhan
Govt. Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner apprehends arrest at the hands of respondent police for the offence punishable under Sections 379 and 430 of I.P.C. r/w 21(1) of Mines and Mineral Development and Regulation Act, 1957 , in connection with Crime No.1041 of 2020 on the file of respondent police and this is the second petition seeking for anticipatory bail filed by the petitioner.

2. The case of the prosecution is that the petitioner said to have committed theft of 2 gunny bags of river sand at Kothamangalam river by transporting it in his two wheeler, which was found by the respondent police during routine vehicle check up. Hence, the complaint was registered against the petitioner.

3. Earlier, this Court had passed an order dated 19.02.2021 in Crl.O.P.No.3177 of 2021 dismissing the petition on the ground that the petitioner is having bad antecedents similar in nature and the investigation is still pending.

4. Today, when the matter taken up for hearing, the learned Government Advocate, on instructions, would submit that there is no bad antecedents against the petitioner and earlier, it has been wrongly stated that there are three previous cases pending against the petitioner. It was also stated that the investigation is almost completed.

5. Taking into consideration of the fact that there is no previous case pending against the petitioner, and now, the investigation is almost completed, 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 No.II, Nagapattinam, on condition that the petitioner shall execute a separate 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, and on further condition that:

[b] 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 the 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/-

23/04/2021

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.II, NAGAPATTINAM

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM

3 INSPECTOR OF POLICE,
THITTACHERRY POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.J.JAWAHAR Advocate on payment of necessary charges
Sr.5243

CRL OP.7278/2021

Date :23/04/2021

RVR 29/04/2021