

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

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

Crl. O.P. No. 8489 of 2021

C.Mariyappan

... Petitioner/Accused No. 3

-VS-

The State Represented by
The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District.
(Crime No. 1453 of 2020)

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, 1973, praying to enlarge the Petitioner on anticipatory bail in the event of arrest in F.I.R. No. 1453 of 2020 on the file of the Respondent Police.

For Petitioner : Mr. C.Palanisamy

For Respondent : Mr. J.C.Durairaj,
Counsel appearing for the Government

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 Section 379 of the Indian Penal Code,

1860, in Crime No. 1453 of 2020 on the file of the Respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the Petitioner had transported 1/2 unit of river sand illegally by using Tipper Lorry bearing Registration No. TN 29 BU 6545 and along with JCB bearing Registration No. TN 29 BU 7050 without any valid permit. Hence, the complaint.

3. The Learned Counsel for the Petitioner would submit that this is the third application for anticipatory bail and the earlier application for anticipatory bail filed by the Petitioner in Crl. O.P. No. 15475 of 2020 was dismissed as withdrawn on 30.09.2020 and the second application for anticipatory bail in Crl. O.P. No. 1618 of 2021 was dismissed on 04.02.2021. He would further submit that the Petitioner is an innocent person and he has been implicated in this case only due to political motive. He would further submit that the vehicles stated to have been used in the occurrence does not belong to the Petitioner and the Petitioner is not connected to this case. Hence, he prays for grant of anticipatory bail to the Petitioner.

4. The Learned Counsel appearing for the Government would submit that 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 JCB and thereby, degraded the environment and caused damages to the ecology. He would further submit that the Petitioner is a habitual offender against whom there are four previous cases of similar nature. He had also enclosed the list of previous cases against the Petitioner, which are detailed below:-

S. No.	Crime No.	Offences U/s.
1	Cr. No. 13 of 2016 Karimangalam P.S.	Sec. 294(b), 307, 379, 506(ii) of I.P.C. r/w 21(1) of M&N (D&R) Act
2	Cr. No. 419 of 2015 Karimangalam P.S.	Sec. 379 of I.P.C. r/w 21(4) M&N (D&R) Act
3	Cr. No. 297 of 2013 Karimangalam P.S.	Sec. 379 of I.P.C. r/w 21(1) M&N (D&R) Act
4	Cr. No. 753 of 2012 Karimangalam P.S.	Sec. 379 of I.P.C. r/w 21(5) M&N (D&R) Act

He would further submit that the Tipper Lorry bearing Registration No. TN 29 BU 6545 and JCB bearing Registration No. TN 29 BU 7050 were seized at the scene of occurrence. He would reiterate that that the Petitioner has involved in commercial exploitation of river sand. Hence, he vehemently opposed for the grant of anticipatory bail to the Petitioner.

5. Heard the Learned Counsels and perused the earlier dismissal orders dated 30.09.2020 and 04.02.2021.

6. This Court in the order dated 03.09.2020 passed in a batch of applications in Crl. O.P. No. 13334 of 2020 and connected matters expressed 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. 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.

7. Accordingly, this Court takes into consideration, the role assigned to the Petitioner in the present case. In this case on hand, the Petitioner was found to be involved in commercial exploitation of river sand by using Tipper Lorry and JCB without any valid permit. Further, this Court taking note of the fact that the Petitioner is a habitual offender had dismissed the earlier application for anticipatory bail in Crl. O.P. No. 1618 of 2021 on 04.02.2021. At that time, it had been represented that the Petitioner was involved in two previous cases, whereas the fact remains that the Petitioner is involved in four previous cases of similar nature. Therefore, this Court is not inclined to grant anticipatory bail to the Petitioner.

8. Accordingly, this Criminal Original Petition is dismissed.

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22.06.2021

Index: Yes/No
Internet: Yes/No

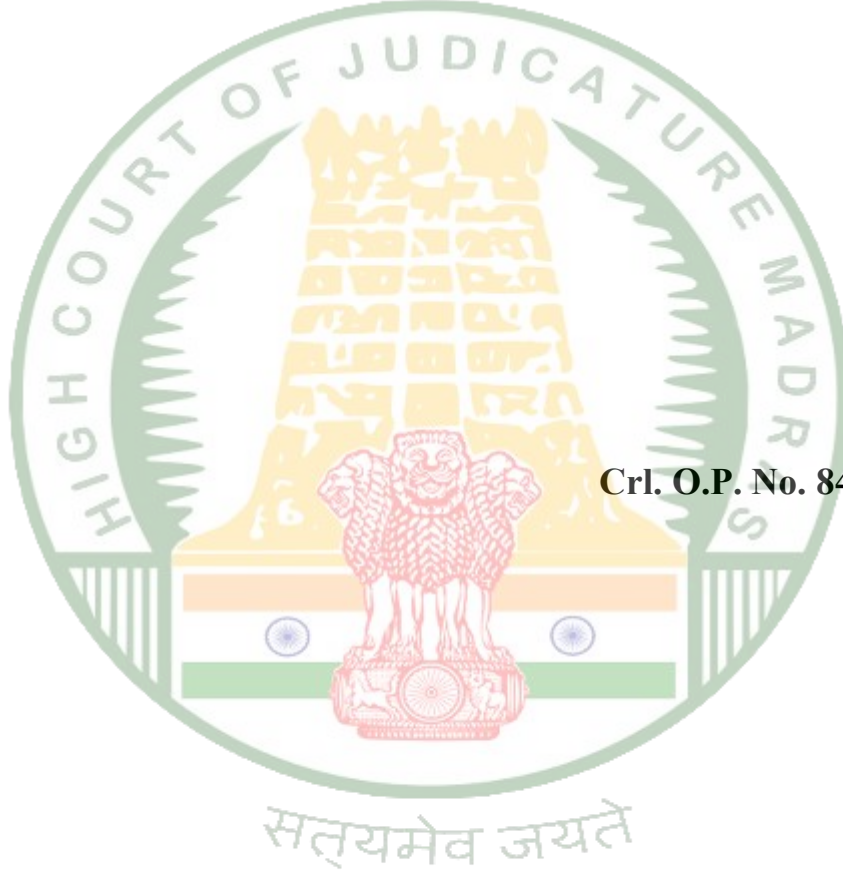
To

1. The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District.
2. The Judicial Magistrate Court,
Palacode.

A.D. JAGADISH CHANDIRA, J.

vjt

3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.



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