

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.05.2021

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.8718 of 2021

Mahalingam

.. Petitioner/ Accused

Vs.

State Represented by,
The Sub-Inspector of Police,
SHO Police Station,
Orathur,
Cuddalore District.
[Crime No.95 of 2021]

.. Respondent/ Complainant

Prayer: Criminal Original Petition filed for anticipatory bail under Section 438 of Criminal Procedure Code.

For Petitioner : Mr.B.Mahendra Naidu

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate, Criminal Side

ORDER

(The matter is heard through "Video Conferencing/Hybrid mode")

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379, 430 of IPC and Section 21 (4) of the Mines and Minerals (Development and Regulation) Act 1957 in Crime No.95 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is alleged to have taken sand (Vandal sand) without any permission for his brick klin business purpose (Chengal Soolai).

3.The learned counsel appearing for the petitioner submits that the petitioner has not committed any offence and due to vengeance, a false complaint has been given against him. Further, he submits that the petitioner is a law abiding citizen and has been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Government Advocate (Criminal Side) appearing for the respondent/Police submitted that without obtaining licence, the

petitioner has taken the sand for his brick klin business purpose (Chengal Soolai) illegally by causing damages to the minerals.

5. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the Trial Court.

6. Merely, because the petitioner has deposited the said 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 the submissions made on either side, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and on such deposit 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 on which the order copy made ready, before the learned Judicial Magistrate No.II, Chidambaram on condition that the petitioner shall execute 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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.

[b] the petitioner shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for investigation.

[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.

-sd/-
06/05/2021

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,
CHIDAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION].

3 THE SUB-INSPECTOR OF POLICE,
SHO POLICE STATION,
ORATHUR, CUDDALORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
CUDDALORE.

+1 CC to M/S B.MAHENDRA NAIDU Advocate on payment of necessary charges SR.NO. 5988

CRL OP.8718/2021

Date :06/05/2021

MN-12/05/2021