

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.05.2021

CORAM

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Cr1.O.P.No.9046 of 2021

Ando Sebastian @ Raja

.. Petitioner

Vs.

The State rep. by

The Sub Inspector of Police

Sozhatharam Police Station,

Cuddalore District.

Crime No.91 of 2021

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.91 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.C.Pugazhenthir

For Respondent : Mr.T.Shunmugarajeswaran  
Government Advocate (Cr1. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 379 and 430 IPC and Section 21(1) of Mines and Minerals (Development and Regulations) Act 1957 in Crime No.91 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had transported  $\frac{1}{4}$  units of lake sand illegally by using a vehicle, bearing Registration No.TN-91-C-7455, without any valid licence. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prays for grant of anticipatory bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the quantity of lake sand involved is 1/4. He further submitted that there is no previous case pending against the petitioner.

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.5,000/- (Rupees Five 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, 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.5,000/- (Rupees Five 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 District-cum-Judicial Magistrate, Kattumannarkoil, Cuddalore District 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 report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

12/05/2021

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,  
KATTUMANNARKOIL, CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE  
CUDDALORE DISTRICT (FOR INFORMATION)

3 .  
THE SUB INSPECTOR OF POLICE, SOZHATHARAM  
POLICE STATION, CUDDALORE DISTRICT.

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,  
DISTRICT MINERAL FOUNDATION TRUST, CUDDALORE

CC to M/S. G.PUGAZHENTHI Advocate on payment of necessary charges Sr.6132

WEB COPY

CRL OP.9046/2021

Date :12/05/2021

RVR 01/06/2021