

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.05.2021

CORAM

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Crl.O.P.No.9166 of 2021

Venkatapathy

... Petitioner

Vs.

State rep by

... Respondent

The Sub Inspector of Police
Cheyyar Police Station,
Thiruvannamalai District.
Crime No.234 of 2021.

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 connection with Crime No.234 of 2021 on the file of respondent police.

For Petitioner : Mr.V.R.Appaswamee

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

ORDER

(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 r/w Section 21 (5) of Mines and Minerals (Development and Regulation) Act 1957 in Crime No.234 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 05.05.2021, the petitioner was found illegally transporting 1/4 unit of river sand by using bullock cart, without any valid license. 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 the quantity of river sand involved is ¼ unit. He further submitted that there is no previous case pending against the petitioner. However, he opposed for grant of anticipatory bail.

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 **Principal District and Sessions Court, Thiruvannamalai** 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 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/-
13/05/2021

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 PRINCIPAL DISTRICT
AND SESSIONS COURT, THIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUB INSPECTOR OF POLICE,
CHEYYAR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

4 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
TIRUVANNAMALAI.

+1 CC to M/S.V.R.APPASWAMEE Advocate on payment of necessary charges SR.NO.6218

CRL OP.9166/2021

Date :13/05/2021

TA-16/06/2021

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