

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

Crl.O.P.No.9404 of 2021

Ashok

... Petitioner

Vs.

The State

Rep. by Inspector of Police,
Kottur Police Station,
Tiruvarur - 614 708.TN
(Crime No.392 of 2021)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to grant anticipatory bail to the petitioner in the event of arrest in connection with Crime No.392 of 2021 pending on the file of the respondent police.

For Petitioner : Mr.S.Nirmal Aditya

For Respondent : Mr.L.Baskaran,
Government Advocate (Crl.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 of the Indian Penal Code, 1872 and Section 21 (2) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.392 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was found in possession of one unit of river sand worth about Rs.3,000/- illegally by using tractor bearing Registration No.TN 50 AV 6841 without having any valid permit.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he is no way involved in the commission of alleged offences.

4. The learned Government Advocate (Crl.Side) appearing for the respondent state would submit that the petitioner was found illegally in possession of one unit of river sand by using tractor and also submits that there is no previous case against him.

5. After giving due consideration to the quantity of the sand alleged to have been carried in the vehicle and in view of the fact that there is no previous case against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the fulfilment of the following conditions.

6. 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 lifting of lock down or commencement of Courts normal functioning whichever is earlier before the learned Judicial Magistrate-II, Mannargudi, 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 conditions that:

[a] the petitioner shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards the Covid Relief Fund, in favour of the District Medical Officer, Tiruvarur District;

[b] the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain their Aadhar cards or Bank pass Books to ensure/verify their identities;

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks from the date of lifting of lock down and thereafter as and when required for interrogation;

[d] the petitioner shall not tamper with evidence or witnesses either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] if there is 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 per P.K.Shaji principle being law laid down by Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560];

and

[g] though obvious, it is made clear that if the accused/petitioner herein thereafter absconds, consequences ingrained in Section 229-A IPC will follow wherever applicable.

-sd/-
10/06/2021

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,
MANNARGUDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
KOTTUR POLICE STATION,
TIRUVARUR-614 708.TN

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE COVID RELIEF FUND,
THE DISTRICT MEDICAL OFFICER,
TIRUVARUR DISTRICT

CC to M/S S.NIRMAL ADITYA Advocate on payment of necessary charges

CRL OP.9404/2021

Date :10/06/2021