

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2021

CORAM :

THE HON'BLE MR. JUSTICE M.SUNDAR

Crl.O.P.No.9873 of 2021

1. Bharathi
2. Kalyani

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Veppanapalli Police Station
Krishnagiri District
(Crime No.56 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on Anticipatory Bail in the event of arrest in Crime No.56 of 2021 pending investigation on the file of the respondent police.

For Petitioners : Mr.M.Jayachandran

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

O R D E R

(The case has been heard through video conference)

Captioned Criminal Original Petition has been filed under Section 438 of 'The Code of Criminal Procedure, 1973' ('Cr.P.C' for the sake of brevity) as the two petitioners apprehend arrest for an alleged offence punishable under Section 379 of the 'Indian Penal Code, 1860' ('IPC' for the sake of brevity) vide Crime No.56 of 2021 on the file of Veppanapalli Police Station, Krishnagiri District.

2. In the virtual Court today, this Court heard Mr.M.Jayachandran, learned counsel for petitioners and Mr.A.Gopinath, learned State Counsel on behalf of State.

3. It is submitted by learned counsel for petitioner that though the allegation is sand theft, but no sand was seized and only a JCB was seized. To be noted, JCB is a reference to a huge earth moving equipment. There is a reference to one unit of sand in the petition, but learned counsel says that he regrets for this typographical error as that is not the correct factual position.

4. The first petitioner is the owner of the JCB and second petitioner is the driver, is his further say.

5. Learned State Counsel, on instructions, submits that no sand was seized, but the JCB was parked in a river that is now dry and therefore, there was enough room to believe that petitioners were indulging in sand theft as according to him this theory is buttressed by a source report.

6. It is not necessary to delve any further on facts owing to the limited scope of captioned Criminal Original Petition which is under Section 438 of Cr.P.C.

7. In the light of the narrative thus far, this Court accedes to the prayer for anticipatory bail on the following conditions:

a) the first petitioner to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to COVID-19 Relief Fund in favour of the District Medical Officer, Krishnagiri within a fortnight from the date of receipt of a copy of this order either by Demand Draft (DD) or National Electronic Funds Transfer (NEFT) and the jurisdictional Judicial Magistrate shall entertain the bail bond only on production of proof of payment of the said sum;

b) accordingly, the petitioners are ordered to be released on bail in the event of arrest or appearance before the learned Principal District and Sessions Judge, Krishnagiri, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties (each) to the satisfaction of the jurisdictional Court on or before 05.07.2021 or within a fortnight from the date of resumption of work of acceptance of sureties by the jurisdictional Court whichever is later and on further conditions that:

(c) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bonds and the jurisdictional Court may demand production of copies of their Aadhar cards or Bank Pass Books to ensure their identity;

(d) the petitioners shall report before the respondent police as and when required for interrogation;

(e) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(f) the petitioners shall not abscond either during investigation or trial;

(g) if there is breach of any of the aforesaid conditions, the jurisdictional Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners have been released on bail by the jurisdictional Court itself 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

(h) if the accused thereafter abscond, a fresh FIR can be registered in accordance with law.

-sd/-

04/06/2021

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 PRINCIPAL DISTRICT AND
SESSIONS JUDGE, KRISHNAGIRI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
VEPPANAPALLI POLICE STATION, सत्यमेव जयते
KRISHNAGIRI DISTRICT.

4 THE DISTRICT MEDICAL OFFICER,
KRISHNAGIRI.

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

CRL OP.9873/2021

Date :04/06/2021

cs 12/07/2021