

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.06.2021

CORAM :

THE HON'BLE Mr. JUSTICE M.SUNDAR

Crl.O.P.No.10016 of 2021

Mahesh

... Petitioner

Vs.

State rep. by its
Inspector of Police,
Tiruvarur Taluk Police Station,
Tiruvarur District.
(Crime No.322 of 2021)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.322 of 2021 on the file of the respondent police.

For Petitioner : Mr.J.Jawahar

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

O R D E R

(The case has been heard through video conference)

Petitioner in captioned Criminal OP is accused no.2 in Crime No.322 of 2021 on the file of Tiruvarur Taluk Police Station, Tiruvarur District and the allegation is theft of river sand. Alleged offences are under Sections 430 of 'Indian Penal Code, 1860' ('IPC' for the sake of brevity) read with 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.

2. It is submitted by learned counsel for petitioner that a JCB was parked but owing to the place where it was parked, there was a presumption on the basis of which, 'First Information Report' ['FIR' for the sake of brevity] has been lodged. This Court refrains itself from expressing any opinion at this stage as this is a petition for anticipatory bail. Learned counsel for petitioner submits that first

accused, who is driver of JCB was granted anticipatory bail vide order dated 04.06.2021 in Crl.OP.No.9879 of 2021.

3. It is submitted that the petitioner is owner of JCB. This Court is informed that JCB is a reference to a huge earth moving equipment. Be that as it may, there are no adverse antecedents qua petitioner.

4. Learned State counsel on instructions, submits that there can be no disputation regarding the submission that this is petitioner's first brush with law or in other words, there are no adverse or bad antecedents qua petitioner.

5. In the light of the narrative thus far, this Court is inclined to accede to the prayer for anticipatory bail to the petitioner on conditions adumbrated infra.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance before the learned Judicial Magistrate, Thiruvavur 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 jurisdictional Magistrate on or before 05.07.2021 or within a fortnight from the date of resumption of work of acceptance of sureties by the jurisdictional Magistrate whichever is later and on further conditions that:

a) the petitioner to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) in favour of the District Medical Officer, Tiruvavur within a fortnight from the date of receipt of a copy of this order either by way of Demand Draft (DD) or by fund transfer;

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

c) the petitioner shall report before the respondent police as and when required for interrogation;

d) the petitioner shall not tamper with evidence or witness/es 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 itself as per P.K.Shaji principle being law laid down by the 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/-

08/06/2021

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,
THIRUVARUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
TIRUVARUR TALUK POLICE STATION,
TIRUVARUR DISTRICT.

5 THE DISTRICT MEDICAL OFFICER,
THIRUVARUR.

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

CRL OP.10016/2021

Date :08/06/2021

cs 12/07/2021