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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.12804 of 2021

Murugan

.. Petitioner

Vs.

The State Rep. by its
Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai District.
(Crime No.2123 of 2020)

.. 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.2123 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr.L.Baskaran
G.A.(Crl.Side)

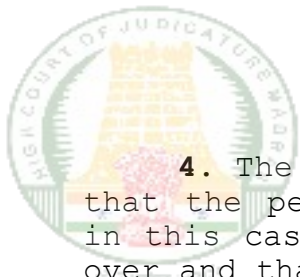
ORDER

(The case has been heard through video conference)

This is the second anticipatory bail application filed by the petitioner, who apprehends arrest at the hands of the respondent police in connection with a case registered in Crime No.2123 of 2020, for the alleged offence under Sections 379 & 430 of IPC r/w Section 21(5) of Mines and Minerals (Development and Regulation Act), 1957 r/w Section 3 of TN Public Property (Prevention of Damage & Loss) Act, 1992.

2. The allegation against the petitioner is that he has indulged in illegal transportation of river sand.

3. Earlier, this Court dismissed the anticipatory bail application filed by the petitioner on 09.02.2021, considering the fact that there were three previous cases pending against the petitioner.



4. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He further submitted that the investigation is almost over and that this is the second anticipatory bail application.

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5. The learned Government Advocate (Crl.Side) strongly opposed the granting of anticipatory bail to the petitioner. He submitted that the earlier anticipatory bail application moved by the petitioner was dismissed by this Court on 09.02.2021, in Crl.O.P.No.1946 of 2021. He further submitted that the petitioner was involved in three previous cases.

6. Hear both sides.

7. Taking into consideration the facts and circumstances of the case, and the fact that the investigation is almost completed and custodial interrogation of the petitioner is not required, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

(a) 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 receipt of a copy of this order, before **the learned District Munsif cum Judicial Magistrate, Kalasapakkam, Thiruvannamalai District**, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:

(b) The petitioner shall make a non-refundable deposit of Rs.5,000/- (Rupees five thousand only) through demand draft in favour of the Dean, Government Thiruvannamalai Medical College and Hospital, Vellore Road, Vengikkal, Thiruvannamalai - 606 604, for the treatment of the COVID-19 patients, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/receipt, shall accept the sureties furnished by the petitioner.

(c) 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.

(d) The petitioner shall appear before the respondent police as and when required for interrogation.

(e) The petitioner shall not tamper with evidence or witness either during investigation or trial.

(f) The petitioner shall not abscond either during investigation or trial.



(g) 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 petitioners 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]**.

(h) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
26/07/2021

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KALASAPAKKAM, THIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KALASAPAKKAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE DEAN,
GOVERNMENT THIRUVANNAMALAI MEDICAL
COLLEGE AND HOSPITAL, VELLORE ROAD,
VENGIKKAL, THIRUVANNAMALAI-606 604.

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

CRL OP.12804/2021

Date :26/07/2021

TA-30/07/2021