



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixth day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.15996 of 2021

1 JAGANATHAN
2 KANNAN
3 SIVASANKARI

[PETITIONERS / ACCUSED]

Vs

STATE BY
THE INSPECTOR OF POLICE,
ELAVANASOORKOTTAI POLICE STATION,
KALLAKURICHI DISTRICT.
CRIME NO.272 OF 2021.

[RESPONDENT]

For Petitioners : M/S. K.BALU Advocate

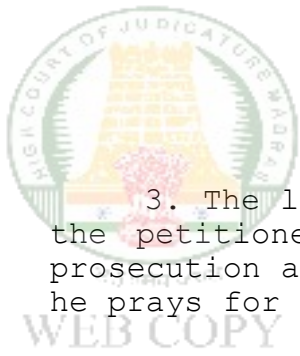
For Respondent : MR.A.GOPINATH, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest for the alleged offence under Section 379 of IPC in Crime No.272 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners were involved in illegal transportation of 1½ units of river sand in 4 Tractors with tipper bearing Regn. Nos.TN-32-S-9262, TN-50-L-0047, TN-15-6683 and one unregistered tractor by using JCB bearing Regn.No.TN-15-B-1770. Hence the complaint.

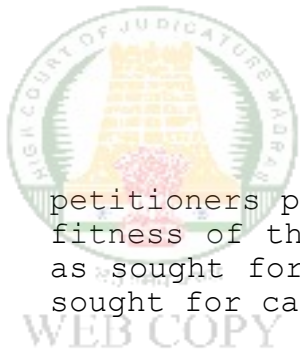


3. The learned counsel appearing for the petitioners submits that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. Hence, he prays for grant of anticipatory bail.

4. The learned Government Advocate (Crl. Side) submits that the petitioner had illegally transported 1½ units of river sand in 4 Tractors with tipper bearing Regn. Nos. TN-32-S-9262, TN-50-L-0047, TN-15-6683 and one unregistered tractor by using JCB bearing Regn.No. TN-15-B-1770 without any valid permit.

5. This Court on the earlier occasion in Crl.O.P.No.15249 of 2020 by order dated 28.09.2020, following the orders passed by this Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier application. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the Court should take into consideration the role assigned to the person on case to case basis.

6. A perusal of the materials reveal that the petitioner was apprehended with 1½ units of river sand, which was being transported with the vehicles bearing Regn. Nos. TN-32-S-9262, TN-50-L-0047, TN-15-6683 and one unregistered tractor by using JCB bearing Regn.No. TN-15-B-1770 without any permit. That being the case, the illegal lifting and transportation of sand has been deprecated by this court in various decisions, keeping in mind the need for maintaining the ecological balance and the conservation of water table in the locality, as held by the Hon'ble Supreme Court, giving any leniency to the petitioner by granting anticipatory bail would only lead to the



petitioners perpetrating the offence once again and, therefore, in the fitness of things, this court is not inclined to accede to the prayer as sought for by the petitioners. Accordingly, the anticipatory bail sought for cannot be granted and this petition is dismissed.

-sd/-
06/09/2021

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 INSPECTOR OF POLICE,
ELAVANASOORKOTTAI POLICE STATION,
KALLAKURICHI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. K.BALU Advocate on payment of necessary charges
SR.NO.9600

CRL OP.15996/2021

Date :06/09/2021

JPA 30/09/2021