



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventh day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.16201 of 2021

S.SIVA @ SIVAKUMAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE SUB-INSPECTOR OF POLICE,
KANNAMANGALAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.
Crime No.709 of 2021

[RESPONDENT]

For Petitioner : M/S.K.VENKAT Advocate

For Respondent : M/S. A.GOPINATH, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest for the alleged offence under Section 379, 430 of IPC 1860, Section 21(1) of Mines and Minerals Act,1957 in Crime No.709 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is involved in illegal transportation of 2½ units of river sand in a tipper lorry bearing Regn. No.TN 72 P 0175. Hence the complaint.

3. The learned counsel appearing for the petitioner submits that the petitioner has 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 2½ units of river sand in a tipper lorry bearing Regn. No.TN 72 P 0175 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 2½ units of river sand, which was being transported with the vehicle bearing Regn. No.TN 72 P 0175 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 petitioner 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 petitioner. Accordingly, the anticipatory bail sought for cannot be granted and this petition is dismissed.

-sd/-

07/09/2021

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 SUB-INSPECTOR OF POLICE,
KANNAMANGALAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.



2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.16201/2021

Date :07/09/2021

APN 23/09/2021