

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.20027 of 2020

Murugan,

... Petitioner/1st Accused

Vs.

The State represented by,
The Inspector of Police,
Palacode Police Station, Dharmapuri District.
[Crime No.1580 of 2020]

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest by the respondent police in Crime No. 1580 of 2020, on the file of the respondent police.

For Petitioner : Mr.V.Vargees Amal Raja

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 of IPC and 21(1), 21(4) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No. 1580 of 2020, on the file of the respondent, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant Sakthivel, Inspector of Police, Palacode is that on 10.09.2020, while he was watching for theft of sand, he had seen the accused driving a tractor with trailer. On interception, the driver of the tractor had left the tractor and escaped from the scene of occurrence. On search of trailer, it was found to have one unit of Norambu sand and thereby, the tractor along with the trailer and sand were seized and the case was registered.

3.The learned counsel for the petitioner would submit that the

petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner is a Agriculturist and he had obtained permission to take 20 units of clay soil from S.No.413/6B1, 8B1, Ernahalli Lake by the Tahsildhar, Palacode vide Permit No.101/2020 dated 10.09.2020 and pursuant to the permission granted, the petitioner had taken clay soil from the lake and while he was transporting, the petitioner was intercepted by the respondent police and fearing the police, the petitioner had left the vehicle and ran away. He would submit that though the petitioner had been granted permit to take clay sand, the petitioner being a villager has inadvertently taken some Norambu sand from the lake bed. He would submit that the petitioner had not committed any offence wilfully and the sand was also taken for reclaiming his agricultural field and that he has not done any commercial exploitation by transporting such sand. He would submit that this is second application for anticipatory bail. Since, the petitioner was unable to furnish all these details at the time of earlier application, the earlier application in Crl.O.P.No.17010 of 2020 was dismissed by this Court by order dated 29.10.2020. On instructions, he would further submit that the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

4.The learned Additional Public Prosecutor submitted that though the petitioner had been granted permission to transport 20 units of clay sand, the petitioner had dug deeper into the lake and taken Norambu soil and thereby spoiled the environment. Further, when the vehicle was intercepted, the petitioner had not produced the permit to the respondent and ran away from the scene of occurrence. Thereby, the case was registered.

5. This Court on the earlier occasion in Crl.O.P.No.17010 of 2020 dated 29.10.2020, 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 applications. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 has been 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 role assigned to the person would have to be considered on case to case basis.

6. Accordingly, this Court takes into consideration, the role assigned to the petitioner in the present case. In this case on hand, it is seen that the petitioner has been issued permit to transport 20 units of clay soil. Further, it is submitted that the learned Counsel for the petitioner that the petitioner had inadvertently taken some Norambu sand from the lake bed while taking clay soil. However, at the time of interception, the driver of the vehicle without producing the permit had run away from the scene of occurrence and thereby, the defacto complainant has seized the vehicle along with sand.

7. In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.20,000/- (Rupees Twenty Thousand only), to "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856," without prejudice to his rights and contentions before the trial Court.

8. Taking into consideration the above facts and circumstances of the case and the voluntary submission made by the petitioner, this court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

9. Accordingly, the petitioner is directed to pay a sum of Rs.20,000/- (Rupees Twenty Thousand only), to "The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c.No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856". On such payment and production proof, 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 on which the order copy is made ready, before the learned Judicial Magistrate, Palacode, 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 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:

[a] the petitioner and 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.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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 petitioner 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].

[f] If the accused thereafter abscond/s, a fresh FIR can be registered under Section 229A IPC.

[g] Merely, because the petitioner deposit the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

-sd/-

20/01/2021

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.

सत्यमेव जयते

TO

- 1.THE JUDICIAL MAGISTRATE,
PALACODE.
- 2.THE CHIEF JUDICIAL MAGISTRATE,
DHARMAPURI DISTRICT.[FOR INFORMATION]
- 3.THE INSPECTOR OF POLICE,
PALACODE POLICE STATION,
DHARMAPURI DISTRICT.

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4.THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5.THE DEAN,
RAJIV GANDHI GOVERNMENT GENERAL HOSPITAL,
CHENNAI,
BEARING A/C.NO.10273425961,
STATE BANK OF INDIA,
PARK TOWN, (CHENNAI),
68, EVENING BAZAAR ROAD,
CHENNAI,
IFSC:SBIN0001856

+1 CC to M/S.V.VARGEES AMAL RAJA Advocate on payment of
necessary charges SR.NO.549

CRL OP.20027/2020

Date :20/01/2021

ksm03/02/2021



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