

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.19499 of 2020

1.Sempagounder

2.Sekar

.... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Konganapuram Police Station,
Salem district.

(Crime No. 148 of 2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail, in the event of arrest in Crime No. 148 of 2020, pending investigation on the file of the Inspector of Police, Konganapuram Police Station, Salem District.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners are arrayed as A1 and A2, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of IPC and 21(1) and 21(4) of Mines & Minerals (Development and Regulation) Act, 1957 and Section 3(1) of the Prevention of Damage to Public Property Act, in Crime No. 148 of 2020, on the file of the respondent police, seek anticipatory bail.

2 It is the case of the prosecution that the petitioners are alleged to have transported 3 units of simple stone worth about Rs.960 without any valid permit in the year 2019. However, the complaint in crime NO.148 was registered in the year 2020. Hence the case.

3 The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons viz., 1st petitioner being the owner of the vehicle and the 2nd petitioner is the driver of the said vehicle. On instruction, he would further submit that, taking into consideration the present Covid pandemic situation, the petitioners are prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to their defence and prays for grant of anticipatory bail.

4 The learned Additional Public Prosecutor appearing for the respondent submitted that during inspection, the respondent seized a Tipper lorry for transporting 3 units of gravel sand worth about Rs. 960/- and the said vehicle was owned by the 1st petitioner and the 2nd petitioner is the driver of the vehicle. After seizure of the lorry, the lorry was handed over to the Tashildar, Edapadi. He further submitted that there is no previous case pending against the petitioners. However, he opposed to grant anticipatory bail to the petitioners.

5 In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioners offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners may be directed to donate/pay a sum of Rs.10,000/- (Rupees Ten Thousand only) jointly to the Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, without prejudice to his right and contention before the trial Court.

6 Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

7 Taking note of the facts and circumstances and also considering that there is no previous antecedents against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

(a) The petitioner is directed to pay a sum of Rs.10,000/- (Rupees Fifteen Thousand only) jointly either through RTGS/NEFT or in cash in favour of Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioners are directed to be released on bail in the event of

their arrest or their appearance and on production of proof of payment of the above amount and on further condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties for the like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioners shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization.

[b] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioners 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 the interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners 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]

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

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

-sd/-

11/01/2021

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.

TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
EDAPADI.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
KONGANAPURAM POLICE STATION, SALEM DISTRICT.

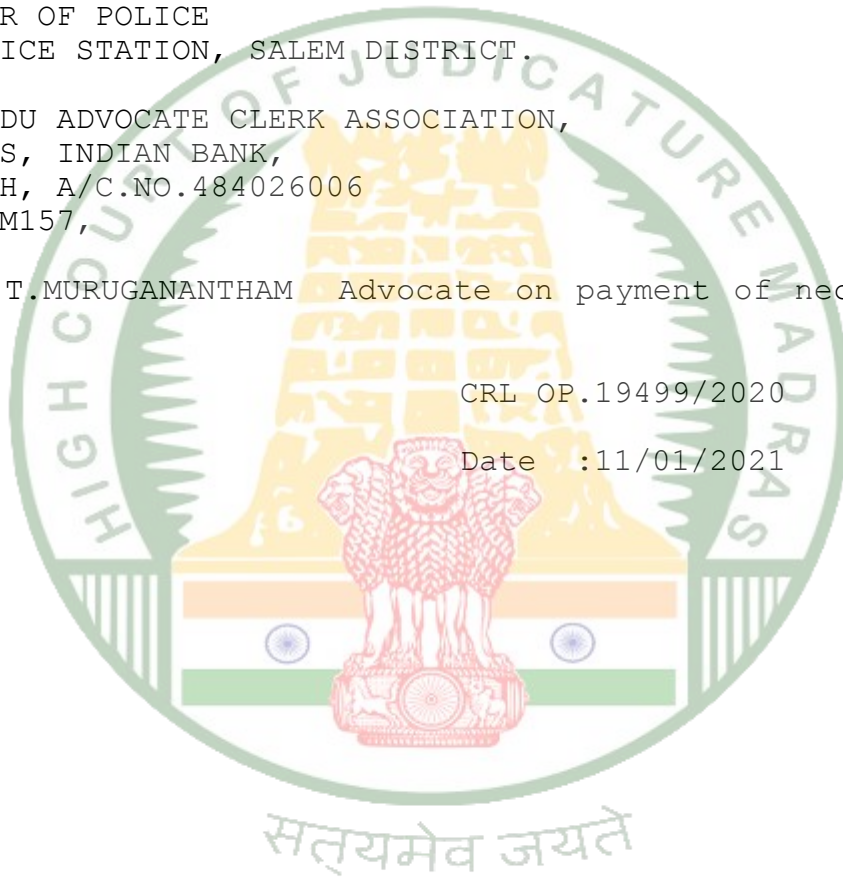
5 THE TAMIL NADU ADVOCATE CLERK ASSOCIATION,
HIGH COURT MADRAS, INDIAN BANK,
HIGH COURT BRANCH, A/C.NO.484026006
IFSC.NO. IDIB000M157,

CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary
charges

CRL OP.19499/2020

Date :11/01/2021

MK:27/01/2021



WEB COPY