

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.19709 of 2020

K.Boopathy

... Petitioner

Vs.

State represented by
The Inspector of Police,
Thakkolam Police Station,
Vellore.
(Cr.No.274 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C. seeking to enlarge the petitioner on bail in the event of his arrest in Crime No.274 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.A.Tamilvanan

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 offence punishable under Sections 430 & 379 of IPC and Section 21 (1) of Mines and Minerals Development & Regulation Act, in Crime No.274 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner had illegally transported 2 units of river sand in his vehicle Tata 407 bearing Regn. No.TN18 K 2737, without any valid permission. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He would submit that the earlier application for anticipatory bail filed by the petitioner in CrI.O.P.No.17913 of 2020 was dismissed by this Court pursuant to the order of this Court in CrI.O.P.No.13334 of 2020 dated 03.09.2020. He would submit that the case of

petitioner stands on the different footing. Infact, on the date of occurrence, the petitioner was not the owner of the vehicle. The alleged occurrence is said to have been taken place on 09.09.2020. Whereas, the petitioner had already sold the vehicle to one Ruthra Kotty Krishnamurthy on 08.07.2020 by a sale deed and he had taken delivery on the same day of sale pursuant to which, there was name transfer of the vehicle and it has also been entered in VAHAN NR e-Services in the RC Status. On 08.07.2020 the said Ruthra Kotty Krishnamurthy had transferred part of the sale amount through e-transfer from his Mobile No.96291838241 and an amount of Rs.3 lakhs was handed over to the petitioner by way of cash. On the same day, the petitioner deposited the amount in his account with South Indian Bank, Kanchipuram Branch, for settling the jewel loan obtained by him and redeemed the jewels from the bank. Subsequently, the said Ruthra Kotty Krishnamurthy has used this vehicle for illegal activities on 09.09.2020. Whereas, the petitioner's name has been unnecessarily dragged in this issue. He would submit that the petitioner has filed necessary proof to show that the vehicle was sold as early as 08.07.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the accused without obtaining any permission from the Government, had illegally dug the land and transported river sand in the vehicle bearing Regn. No.TN18 K 2737 and the driver of the vehicle escaped from the scene of occurrence. He would submit that the investigation is pending. Hence he opposed for the grant of anticipatory bail to the petitioner.

5. Heard the Counsels and perused the materials including the bank statement of the petitioner and the document of sale in respect of vehicle bearing Registration No. TN18 K 2737.

6. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Judicial Magistrate, Arakkonam, 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 one week and thereafter as and when required.

[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, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

07/01/2021

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 JUDICIAL MAGISTRATE,
ARAKKONAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THAKKOLAM POLICE STATION,
VELLORE.

+1 CC to M/S.A.TAMILVANAN Advocate on payment of necessary charges SR.No.219

CRL OP.19709/2020

Date :07/01/2021