

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.21120 of 2020

Chinnaiah

... Petitioner

Vs.

The State by
Sub-Inspector of Police,
Office of the Post Commander,
Railway Protection Force,
Arakonam, Ranipet District.
(Crime No.2 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of her arrest in Crime No.2 of 2020 pending on the file of the respondent.

For Petitioner : Mr.N.R.Kaushik

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of respondent police for the offence punishable under Sections 3(a) of Railway Property (Unlawful Possession) Act, 1966 in Crime No.2 of 2020 and now, he has filed the above petition seeking for anticipatory bail.

2. The petitioner is a retired employee of Southern Railway. The case of the prosecution is that he is trying to encroach the property belongs to Southern Railway and he has cut and removed the trees. Based on the complaint of Railway Protection Force, the present complaint has been registered against the petitioner.

3. The learned counsel appearing for petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is ready and willing to file an undertaking affidavit to

the respondent police that he will not encroach the property belong to Southern Railways.

4. I have heard and considered the submissions made by the learned counsel appearing for petitioner as well as Additional Public Prosecutor and perused the records.

5. Taking into consideration of the fact that the only allegation is that the petitioner is trying to encroach the property belong to Southern Railways and now, he is ready and willing to file an undertaking affidavit that he will not encroach the property belong to Railway department, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, 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 of receipt of a copy of this order, before **the learned Judicial Magistrate, Arakkonam, Ranipet District** on condition that **the petitioner shall file an undertaking affidavit before the respondent police that he will not encroach any property belongs to Southern Railways**, and after filing the undertaking affidavit, the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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, and on further condition that:

[b] 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;

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

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

-sd/-

08/01/2021

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, RANIPET DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB - INSPECTOR OF POLICE,
OFFICE OF THE POST COMMANDER,
RAILWAY PROTECTION FORCE,
ARAKONAM, RANIPET DISTRICT.

CC to M/S. N.R.KAUSHIK Advocate on payment of necessary charges

CRL OP.21120/2020

Date :08/01/2021

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MN-25/01/2021