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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P.No.21658 of 2021

1.Mariyappan
2.Kanakaraj

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
Anaikaranchatram Police Station,
Mayiladuthurai District.
Crime No.824 of 2021.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioners on bail in the event of their arrest in Crime No.824 of 2021 on the file of the respondent.

For Petitioners : Mr.J.Jawahar

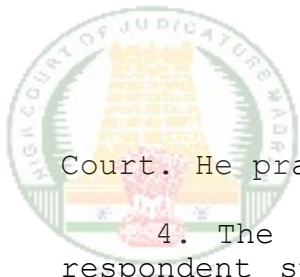
For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl.Side)

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379, 430 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957, in Crime No.824 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners have transported lunit of river sand illegally by using their vehicle without any valid licence. A1 is the driver and A2 is the owner of the vehicle. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. However, on instructions, the learned counsel further submitted that the petitioners, on their own volition, is ready and willing to contribute a sum of Rs.5,000/- to the credit of the Registered Advocate Clerk Association, Sirkazhi that may be imposed by this



Court. He prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.side) appearing for the respondent submitted that the quantity of river sand involved is 1 unit. He further submitted that A1 has one previous case and A2 has 4 previous case, hence he vehemently opposed to grant anticipatory bail to the petitioners.

5. Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate (Crl.side), this Court is inclined to grant anticipatory bail to the petitioner/A1 with certain conditions. As far as A2 is concerned this petition is dismissed. Accordingly, the petitioner/A1 is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Sirkazhi, 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/A1 is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of the Registered Advocate Clerk Association, Sirkazhi, within a period of two weeks from the date of receipt of a copy of this order and shall produce the said receipt before the Court below.

[b] the petitioner/A1 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.

[c] the petitioner/A1 is directed to report before the respondent police on every Wednesday at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

[d] the petitioner/A1 shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner/A1 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 petitioner/A1 in accordance with law as if the conditions have been imposed and the petitioner/A1 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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-sd/-

18/11/2021

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,
SIRKAZHI

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
ANAIKARANCHATRAM POLICE STATION,
MAIYLADUTHURAI DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE REGISTERED ADVOCATE
CLERK ASSOCIATION, SIRKAZHI

CC to M/S. J.JAWAHAR Advocate on payment of necessary charges

CRL OP.21658/2021

Date :18/11/2021

APN 24/11/2021