



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

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

Crl.O.P.No.22439 of 2021

1.Rajkumar
2.Elumalai

... Petitioners

Vs.

State Represented by
The Inspector of Police,
Vellavedu Police Station,
Thiruvallur District.
Crime No.583 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.583 of 2021 on the file of the The Inspector of Police,Vellavedu Police Station, Thiruvallur District.

For Petitioners : Mr.C.Prabakaran

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

ORDER

The petitioners who apprehend arrest for the alleged offence under Sections 379 and 430 of IPC r/w Section 36(A) M.M(D&R) Rules, in Crime No.583 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners along with other accused illegally transported two units of river sand by using JCB Machine without any valid license. Hence the complaint.

3.The learned counsel appearing for the petitioners submits that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submits that the petitioners are no way connected with the offence as stated above. Hence, he prays to grant anticipatory bail to the petitioners. However, on instructions, the learned counsel further submits that the petitioners, on his own volition, are ready and willing to contribute a sum of Rs.10,000/- to the credit of the



Dhanabakkiammal Social Welfare Trust, D-3, 1/338, Vasantham Apartment, Sabari Salai, Madipakkam, Chennai - 91, A/C.No.921010003441816, Axis Bank, Madipakkam Branch, IFSC Code:UTIB0000083, Cell No.9840894264, that may be imposed by this Court. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) submits that petitioners illegally transported two units of river sand by using JCB machine without any valid license. He would further state that the 1st petitioner is habitual offender and that there are five previous cases pending against the 1st petitioner.

5. Considering the gravity of the offence, I am not inclined to grant anticipatory bail to the petitioner/A1. Accordingly, this petition is dismissed as against the petitioner/A1.

6. Considering the fact that there is no serious allegation as against the petitioner/A2, this Court is inclined to grant anticipatory bail to the petitioner/A2.

7. Considering the facts and circumstances of the case and also considering the submissions made by the both counsel and also the fact that the 2nd petitioner have willfully and on his own volition agreed to contribute a sum of Rs.10,000/- for charitable purpose, this Court is inclined to grant anticipatory bail to the 2nd petitioner with certain conditions.

8. Accordingly, the 2nd petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.II, Poonamallee, on condition that the petitioners 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 2nd petitioner is directed to deposit a sum of Rs.10,000/- to the credit of the Dhanabakkiammal Social Welfare Trust, D-3, 1/338, Vasantham Apartment, Sabari Salai, Madipakkam, Chennai - 91, A/C.No.921010003441816, Axis Bank, Madipakkam Branch, IFSC Code:UTIB0000083, Cell No.9840894264,, 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 2nd 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.



[c] the 2nd petitioner is directed to report before the respondent police every Wednesday at 10.30 a.m., for a period of four weeks and thereafter as and when required for interrogation;

[d] the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the 2nd petitioner 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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].

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

-sd/-
26/11/2021

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,
NO.2, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
VELLAVEDU POLICE STATION,
TIRUVALLUR DISTRICT.

4 THE DHANABAKKIAMMAL SOCIAL
WELFARE TRUST, D-3, 1/338, VASANTHAM APARTMENT,
SABARI SALAI, MADIPAKKAM. CHENNAI-91.
A/C.No.921010003441816, Axis Bank,
Madipakkam Branch, IFSC Code:UTIB0000083,
Cell No.9840894264.

<https://hcservices.ecourts.gov.in/hcservices/>



5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.C.PRABAKARAN
charges SR.NO.13535

Advocate on payment of necessary

CRL OP.22439/2021

Date :26/11/2021

CSK 02/11/2021