



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Ninth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3103 of 2022

1 MACHENDIRAN
2 NELSAN

[PETITIONERS / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
THIRUVENKADU POLICE STATION,
MAYILADUTHURAI DISTRICT.
CRIME NO.16/2022.

[RESPONDENT]

For Petitioner : M/S.J.JAWAHAR Advocate

For Respondent : M/S.S.SANTHOSH, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Section 379 of IPC r/w 21(1) Mines and Minerals (Development & Regulation) Act, in Crime No.16 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 18.01.2022, when the respondent police on a regular check up, they found that the petitioners were involved in illegal transportation of ½ unit of river sand without any permission from the concerned authorities. Hence, the Law Enforcing Agency registered a case against the petitioner.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any such offence as alleged by the prosecution and they have been falsely implicated in this case. However, on instructions, the learned counsel further submit that the



petitioners, on their own volition, are ready and willing to contribute a sum of Rs.30,000/- (First Petitioner - Rs.25,000/- and Second Petitioner -Rs.5,000/-) for any welfare activities as may be ordered by this Court. In fact, learned counsel for the petitioners submit that a sum of Rs.30,000/- be given to " The Director, Cancer Institute(WIA), Adayar for treating Cancer patients" ;

4. The learned Government Advocate (Criminal Side) appearing for the respondent police submit that the property which was used for committing the offence has been recovered and the same is in the custody of the respondent police. He further submits that there is no previous case pending against the petitioners. However, he opposed for grant of anticipatory bail to the petitioners.

5. In view of the fact that the property used for transporting the river sand has been recovered and further, the petitioners on their own volition is ready and willing to contribute a sum of Rs.30,000/- for the purpose of welfare activities, this Court is inclined to grant anticipatory bail to the petitioners.

6. Accordingly, the petitioners are 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, Sirgazhi on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 and on further condition that:

(a) if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) as undertaken by the petitioners on their own volition, the petitioners shall make a non refundable deposit of Rs.30,000/- (First Petitioner -Rs.25,000/- and Second Petitioner -Rs.5,000/-) through demand draft in favour of " The Director, Cancer Institute(WIA), Adayar for treating Cancer patients under necessary acknowledgment. The above contribution is made without prejudice to their defence before the trial court and the petitioners shall submit proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the receipt/acknowledgment shall accept the sureties furnished by the petitioners;

(c) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



(d) the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of thirty(30) days and thereafter as and when required.

(e) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(f) the petitioners shall not abscond either during investigation or trial;

(g) 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]; and;

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

09/02/2022

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,
SIRGAZHI.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
THIRUVENKADU POLICE STATION,
MAYILADUTHURAI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE DIRECTOR,
CANCER INSTITUTE (WIA), ADAYAR.

CC to M/S.J.JAWAHAR Advocate on payment of necessary charges
CRL OP.3103/2022

Date :09/02/2022

RW 16/02/2022