



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventeenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3989 of 2022

BALAJI @ ELAVARASAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
THIRUMANUR POLICE STATION,
ARIYALUR DISTRICT.
CRIME NO.394 OF 2021.

[RESPONDENT]

For Petitioner : M/S.R.JAYAPRAKASH Advocate

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

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Section 379 of the Indian Penal Code, 1860 and Section 21(1)(a)(b) of Miners and Minerals (Development and Regulation) Act, 1957, in Crime No.394 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 30.12.2021, when the respondent police was on regular patrol, they found that the petitioner was involved in illegal transportation of 3 gunny bags of river sand in his two wheeler without any valid permission from the concerned authority. Hence, the Law Enforcing Agency registered a case against the petitioner.

3.The learned counsel appearing 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. However, on instructions, the learned counsel further submit that the petitioner, on his own volition, is ready and willing to contribute



a sum of Rs.5,000/- (Rupees Five Thousand Only) for any welfare activities as may be ordered by this Court. In fact, learned counsel for the petitioner submit that a sum of Rs.5,000/- be given to "Madras High Court Advocate Clerks Welfare Association".

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

5. The submissions made by the learned Counsel on either sides are considered.

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

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 days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II at Ariyalur on condition that the petitioner 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 petitioner 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 petitioner on his own volition, the petitioner shall make a non refundable deposit of Rs.5,000/- through demand draft in favour of "Madras High Court Advocate Clerks Welfare Association" under necessary acknowledgment. The above contribution is made without prejudice to their defence before the trial court and the petitioner 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 petitioner;

(c) the petitioner 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 petitioner shall report before the respondent police daily at 10.00 a.m., for a period of thirty(30) days and thereafter as and when required for interrogation.

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

(f) the petitioner 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 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]; and;

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

-sd/-
17/02/2022

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,
NO.II, ARIYALUR.

2 THE CHIEF JUDICIAL MAGISTRATE
ARIYALUR [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
THIRUMANUR POLICE STATION,
ARIYALUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



5 THE MADRAS HIGH COURT
ADVOCATE CLERKS WELFARE ASSOCIATION,
CHENNAI.

WEB COPY

+1 CC to M/S.R.JAYAPRAKASH Advocate on payment of necessary
charges SR.NO.2511

CRL OP.3989/2022

Date :17/02/2022

JPA 24/02/2022