



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.4479 of 2022

M.K.S.KANDHASAMY

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
OMALUR POLICE STATION,
SALEM DISTRICT.
(CRIME NO.893 OF 2021)

[RESPONDENT]

For Petitioner : M/S.M.SELVAM 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 IPC, in Crime No.893 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that when the Village Administrative Officer, Tharapuram, Kadaiyampatty Taluk, Salem District, and his subordinates were on routine vehicle check up, they found that the petitioner was involved in illegal transportation of four units of Morambu sand in tipper lorry, without any valid permission from the concerned authority. Hence, the respondent police registered a case against the petitioner.

3. The learned counsel appearing for the petitioner submits that the petitioner is an innocent person and he has been falsely implicated in this case. However, on instructions, the learned counsel further submits that the petitioner, on his own volition, is ready and willing to contribute a sum of Rs.10,000/- (Rupees Ten 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.10,000/- be given to "The Chief Educational Officer, Salem District, for the rehabilitation and improvement of the basic needs of the Government Schools in the said District".

4. The learned Government Advocate (Criminal Side) appearing for the respondent police raised objection stating that the investigation is pending. However, he fairly admits that the property which was used in the commission of offence has been recovered and the same is in the custody of the police.

5. Being the reason that the property, which was used in the commission of offence as well as the property which was transported have already been recovered, custodial interrogation of the petitioner may not be necessary and also considering the fact that the petitioner on his own volition is ready and willing to contribute a sum of Rs.10,000/- for the purpose of welfare activities, this Court is inclined to grant anticipatory bail to the petitioner.

6. 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, Omalur, Salem, 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.10,000/- (Rupees Ten Thousand Only) through demand draft in favour of "The Chief Educational Officer, Salem District" for the rehabilitation and improvement of the basic needs of the Government Schools in the said District, under necessary acknowledgement. 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/-

24/02/2022

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,
OMALUR, SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
OMALUR POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



5 THE CHIEF EDUCATIONAL OFFICER,
SALEM DISTRICT.

+1CC to M/S.M.SELVAM Advocate on payment of necessary charges
SR.No.2884

CRL OP.4479/2022

Date :24/02/2022

CSK 01/03/2022