

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.21094 of 2021

K.Sakthivel

...Petitioner

-Vs-

State rep by
The Inspector of Police,
Thiruchengodu Rural Police Station,
Namakkal District.
Crime No.1174 of 2020.

..Respondent

Prayer : Criminal Original Petition is filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of apprehending arrest in the Crime No.1174 of 2020 on Inspector of Police, Thiruchengodu Police Station, Namakkal District.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.1174 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant one Sasi Kumar, Assistant Director, AD Mines, Salem is that on 18.10.2020 while he was conducting surprise raid, he had seen a Tipper lorry bearing Regn. No.TN.23 CB 7193 transporting 4 units of Gravel sand without any valid permission. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that earlier application for bail was dismissed in Crl.O.P.No.447 of 2021 on 11.02.2021. During that time, certain important facts were not placed before this Court.

Despite the dismissal on 11.02.2021, the respondent has not taken steps to arrest the petitioner. The petitioner is very much available in Town and Tipper lorry which has been seized by the respondent is also in the custody of the respondent. It is a case where the petitioner is alleged to have transported 4 units of gravel sand. The petitioner is prepared to cooperate with the respondent in the investigation. The petitioner also undertakes to make a non-refundable deposit of Rs.25,000/- to the credit of the concerned District Mineral Foundation Trust, without prejudice to his defence.

4.The learned Additional Public Prosecutor would submit that the petitioner is the owner-cum-driver of the vehicle bearing Registration No.TN.23 CB 7193 and he had transported 4 units of Gravel Sand and he would submit that the case was registered on 18.10.2020 and the respondent has not taken any steps to secure the petitioner.

5.In view of the rehabilitation undertaken by the State Government under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities and also considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner is directed to make a non refundable deposit of Rs.25,000/- (Rupees Twenty five thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

6. It is made clear that the deposit of the amount by the petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

7. Taking into consideration, the case has been registered on 18.10.2020 and pursuant to the two dismissal orders, the respondent has not taken any steps to secure the petitioner, this Court is inclined to grant Anticipatory Bail to the petitioner with certain conditions.

8. 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, Thiruchengodu, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioner shall make a non refundable deposit of Rs.25,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust Fund, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;

(iii) the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter, every Monday at 10.30 a.m., until further orders.

(iv) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioner shall not abscond either during investigation or trial.

(vi) 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].

(vii) 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,
THIRUCHENGODU.

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

3 THE INSPECTOR OF POLICE,
THIRUCHENGODU RURAL POLICE STATION,
NAMAKKAL DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
NAMAKKAL DISTRICT.

+1 CC to M/S P.MUTHAMIZHSELVAKUMAR Advocate on payment of
necessary charges SR.NO. 2279

CRL OP.21094/2021

Date :09/02/2022

RW 16/02/2022