



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Friday, the Twenty Fifth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.25984 of 2021

ABDUL RAHMAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
GUDIYATHAM TALUK POLICE STATION,
VELLORE DISTRICT
CR NO.338/2019

[RESPONDENT]

For Petitioner : M/S.A.VIJAYAKUMAR 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 Sections 379, 430 of IPC and under Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.338 of 2019, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that when the respondent police and his subordinates were on patrol duty, they found that the petitioner and others were involved in illegal transportation of one unit river 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 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 without prejudice to his defence and contentions, the petitioner on his own volition, is willing to contribute a sum of Rs.25,000/- for the purpose of improving and maintaining the Government Schools. Hence, he prays for grant of anticipatory bail to the petitioners.



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. However, he opposed for grant of anticipatory bail to the petitioners.

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

6. Being the reason that the property which was used in the commission of offence as well as the property which was transported was already been recovered, custodial interrogation of the petitioner may not be necessary and also considering the fact that the petitioner has willfully and on his own volition agreed to contribute a sum of Rs.25,000/- for charitable purpose, 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 Court, Gudiyatham, 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) The petitioner shall make a non-refundable deposit of Rs.25,000/- to the credit of " The Chief Educational Officer, Vellore District, for the rehabilitation and improvement of the basic needs of the Government Schools in the said District under necessary acknowledgment without prejudice to their defence before the trial court and 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 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.

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(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 themselves 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.

8. In the result, this Criminal Original Petition is ordered and the Chief Educational Officer shall submit the necessary proof with regard to the expenditure incurred for the improvement/rehabilitation of the Schools in the District before the Director of School Education as and when such works are completed by utilising the money as ordered by this Court.

-sd/-

25/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
GUDIYATHAM

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
GUDIYATHAM TALUK POLICE STATION,
VELLORE DISTRICT



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE CHIEF EDUCATIONAL OFFICER
VELLORE

CC to M/S.A.VIJAYAKUMAR Advocate on payment of necessary charges

CRL OP.25984/2021

Date :25/02/2022

RVR 03/03/2022