



Crl. O.P. No.21456 of 2024

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P. DHANABAL.J.,

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The petitioner / Accused, who apprehends arrest in the hand of the respondent police for the offences punishable under Sections 430, 379 of IPC and Section 21(1) of Mines & Minerals (Development Regulation) Act 1957 in connection with the Cr. No.687 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that when the respondent police party conducted a routine vehicle check up, they found the petitioner illegally transported two units of river sand in lorry bearing Registration No.TN21 AX 5081. Hence the case.

3. The learned counsel appearing for the petitioner would contend that the petitioner has not committed any offence as alleged in the FIR and false case has been registered against him, that he was already granted anticipatory bail by this Court vide order in Crl. O.P. No.9641 of 2020 dated 29.06.2020 and thereafter, due to his health conditions, he was not able to comply with the condition and he was not able to produce sureties, that as per the earlier order, if the petitioner failed to comply with conditions, the petition for anticipatory bail shall stand automatically



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dismissed and therefore, now he has filed a fresh application for grant of anticipatory bail.

4. The learned Government Advocate (Criminal side) appearing for the respondent police would submit that already the petitioner was granted anticipatory bail and further he has not filed any petition for extension of time and now this application has been filed by the petitioner, since already the petitioner was granted anticipatory bail, this petition is not maintainable and liable to be dismissed.

5. Heard both sides and perused all the materials available on record.

6. It is an admitted fact that already this Court granted anticipatory bail to the petitioner vide order passed in Crl. O.P. No.9641 of 2020 dated 29.06.2020 with some conditions and to appear before the Judicial Magistrate, Uthiramerur within a period of 15 days on executing a bond with two sureties, failing which the petition for anticipatory bail shall stand dismissed.

7. At this juncture, it is relevant to rely on the judgment of Hon'ble Supreme Court in *Sushila Aggarwal and others vs. State (NCT of Delhi)* and another in *Special Leave Petition (Criminal) Nos.7281-7282 of*



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2017, in which, in the final conclusions in para nos.1 to 3 and 12, the

Hon'ble Supreme Court has held as follows:-

"FINAL CONCLUSIONS:

In view of the concurring judgments of Justice M.R. Shah and of Justice S. Ravindra Bhat with Justice Arun Mishra, Justice Indira Banerjee and Justice Vineet Saran agreeing with them, the following answers to the reference are set out:

(1) Regarding Question No.1, this Court holds that the protection granted to a person under Section 438 Cr.P.C. should not invariably be limited to a fixed period; it should inure in favour of the accused without any restriction on time. Normal conditions under Section 437(3) read with Section 438(2) should be imposed; if there are specific facts or features in regard to any offence, it is open for the Court to impose any appropriate condition (including fixed nature of relief, or its being tied to an event) etc.,

(2) As regards the second question referred to this Court, it is held that the life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the Court, or when charges are framed, but can continue till the end of the trial. Again, if there are any special or peculiar features necessitating the Court to limit the tenure of anticipatory bail, it is open for it to do so.

1, This Court, in the light of the above discussion in the two judgments, and in the light of the answers to the reference, hereby clarifies that the following need to be kept in mind by Courts, dealing with applications under Section 438 Cr.P.C.

(1) Consistent with the judgment in *Shri Gurbaksh Singh Sibbia and others v. State of Punjab*", when a person complains of apprehension of arrest and approaches for order, the application should be based on concrete facts (and not vague or general allegations) relatable to one or other specific offence. The application seeking anticipatory bail should contain bare essential facts relating to the offence, and why the applicant reasonably apprehends arrest, as well as his side of the story. These are essential for the Court which should consider his application, to evaluate the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not essential that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear that there is reasonable basis for apprehending arrest.

(2) It may be advisable for the Court, which is



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approached with an application under Section 438, depending on the seriousness of the threat (of arrest) to issue notice to the public prosecutor and obtain facts, even while granting limited interim anticipatory bail.

(3) Nothing in Section 438 Cr.P.C. compels or obliges Courts to impose conditions limiting relief in terms of time, or upon filing of FIR, or recording of statement of any witness, by the police, during investigation or inquiry etc., While considering an application (for grant of anticipatory bail) the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc., The Courts would be justified - and ought to impose conditions spelt out in Section 437(3) Cr.P.C. [by virtue of Section 438(2)]. The need to impose other restrictive conditions, would have to be judged on a case by case basis, and depending upon the materials produced by the State or the investigating agency. Such special or other restrictive conditions may be imposed if the case or cases warrant, but should not be imposed in a routine manner, in all cases. Likewise, conditions which limit the grant of anticipatory bail may be granted, if they are required in the facts of any case or cases; however, such limiting conditions may not be invariably imposed.

(12) The observations in *Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors (and other similar judgments)* that no restrictive conditions at all can be imposed, while granting anticipatory bail are hereby overruled. Likewise, the decision in *Salauddin Abdulsamad Shaikh v. State of Maharashtra and subsequent decisions (including K.L. Verma v. State & Anr, Sunita Devi v. State of Bihar & Anr, Adri Dharan Das v. State of West Bengal, Nirmal Jeet Kaur v. State of M.P. & Anr., HDFC Bank Limited v. J.J. Mannan; Satpal Singh v. the State of Punjab and Naresh Kumar Yadav v. Ravindra Kumar)* which lay down such restrictive conditions or terms limiting the grant of anticipatory bail, to a period of time are hereby overruled"

In view of the above said judgment, this Court cannot grant anticipatory bail for a particular period and since already this Court granted anticipatory bail and the petitioner has not filed any time extension



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petition and now filed this fresh application, it is appropriate to extend the time to the petitioner, granted in the earlier anticipatory bail application in Crl. O.P. No.9641 of 2020 dated 29.06.2020.

8. Accordingly, instead of granting anticipatory bail once again to the petitioner, this Court is inclined to extend the time for another **1 (one) month**, from the date of receipt of copy of this order, to furnish sureties to the petitioners.

9. With the above observations, the Criminal Original Petition is disposed of.

04.09.2024

mjs

P.DHANABAL,J
mjs

To

- 1.The Judicial Magistrate, Uthiramerur.
2. The Public Prosecutor, High Court, Madras.
- 3.The Inspector of Police, Salavakkam Police Station, Kancheepuram District.



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