



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Monday, the Ninth day of March Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) Nos.3261 & 3854 of 2015

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SOLAIRAJAN

... PETITIONER/ACCUSED NO.1
IN CRL OP(MD).No.3261 of 2015

1.PONRAJ
2.RAMANATHAN

... PETITIONERS/ACCUSED - 5 & 6
IN CRL OP(MD).No.3854 of 2015

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH POLICE STATION,
MADURAI. CR. NO. 17/2015.

... RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

For Petitioner : MR.AJMAL KHAN, SENIOR COUNSEL FOR
M/S.AJMAL ASSOCIATES Advocate
IN CRL OP(MD).No.3261 of 2015

For Petitioner : MR.D.ANBARASU, ADVOCATE
IN CRL OP(MD).No.3854 of 2015

For Respondent : MR.S.SHANMUGA VELAYUTHAM PUBLIC PROSECUTOR
ASSISTED BY MR.R.RAMACHANDRAN,
ADDITIONAL PUBLIC PROSECUTOR
IN BOTH PETITIONS

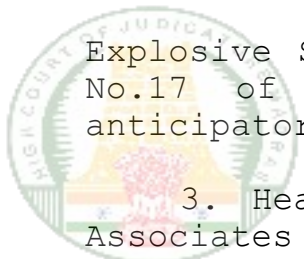
PETITION FOR BAIL Under Sec. 439 Cr.P.C.
IN CRL OP(MD).No.3261 of 2015

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.
IN CRL OP(MD).No.3854 of 2015

ORDER : The Court Made the following order :-

The petitioner in Crl.O.P.(MD) No.3261 of 2015, who was arrested and remanded to judicial custody on 01.02.2015 for the alleged offences punishable under Sections 120(b), 447, 379, 420, 304(ii), 434 r/w 511 IPC, 3(1) of TNPPDL Act, 3(a), 4(a) of Explosive Substances Act, 4(1), 4(1-A) and 21 of MMDR Act in Crime No.17 of 2015 on the file of the respondent police, seeks bail.

2. The petitioners in Crl.O.P.(MD) No.3854 of 2015, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(b), 447, 379, 420, 304(ii), 434 r/w 511 IPC, 3(1) of TNPPDL Act, 3(a), 4(a) of



Explosive Substances Act, 4(1), 4(1-A) and 21 of MMDR Act in Crime No.17 of 2015 on the file of the respondent police, seek anticipatory bail.

3. Heard Mr.Ajmal Khan, learned Senior Counsel for M/s.Ajmal Associates appearing for the petitioner in CrI.O.P.(MD) No.3261 of 2015 and Mr.D.Anbarasu, learned counsel appearing for the petitioners in CrI.O.P.(MD) No.3854 of 2015 and Mr.S.Shanmuga Velayutham, learned Public Prosecutor assisted by Mr.R.Ramachandran, learned Additional Public Prosecutor, appearing for the State.

4. The facts of the case has been narrated by the prosecution as follows:

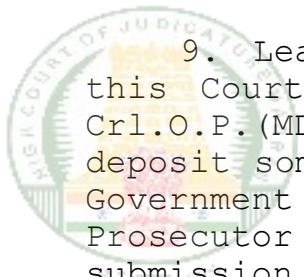
"On 31.01.2015 at 09.30 hrs Tr.S.Pandiyarajan, Village Administrative Officer of Ayyapatti Village i/c Thiruchunai Village, Melur Taluk, Madurai District has preferred a complaint that vide G.O.Ms.(3D) No.11, Industries (MMB 1) Dept. dt. 11.04.2003, the Government granted lease to one Solairajan to quarry Granites in Survey No.94/2 (P) (Northern Side) Parai Puramboku about 2.00.0 Hectares for a period of 10 years from 08.12.2003 to 29.12.2013. From that day onwards the Al Accused Solairajan conspired and entered into an agreement with his friend on Venkatasubbu and his son's V.Mohan, V.Murali quarried in the lease hold land engaging this petitioners and other accused as workers and trespassed into the adjacent Government Odasal Kulam in Survey No.94/1 adjacent to the lease hold area and illegally quarried granites and committed theft of 967.2 cubic meter of multi coloured granites and wrongfully gained themselves to the tune of Rs.46.05 Crores causing wrongful loss to the Government."

5. It is seen that the petitioner in CrI.O.P.(MD) No.3261 of 2015 was arrested by Police in connection with similar offences in Crime No.18 of 2015 and was remanded to judicial custody. In respect of the said crime number, learned I Additional Sessions Judge, Madurai granted bail to this petitioner in CrI.M.P.No.1169 of 2015 on 16.02.2015.

6. Learned Senior Counsel for the petitioner in CrI.O.P.(MD) No.3261 of 2015 submitted that even according to the prosecution, the petitioner had given a Power of Attorney to one Venkatasubbu for running the quarry and therefore, this petitioner cannot be held vicariously liable for the mis-demeanour of his power agent.

7. I am unable to persuade myself to agree with this contention of the learned Senior Counsel for the petitioner, because the quarry lease was given by the Government to Solairajan only and he cannot absolve himself of his liability by contending that he had given the power of attorney to another person.

8. It is the case of the prosecution that Solairajan along with Venkatasubbu and Mohan were together engaged in quarrying.



9. Learned Public Prosecutor submitted that in the event of this Court deciding to grant bail to Solairajan / petitioner in CrI.O.P.(MD) No.3261 of 2015, the petitioner should be directed to deposit some amount in view of the loss that has been caused to the Government on account of the illegal quarrying. Learned Public Prosecutor also cited Subrata Roy's case in support of his submission.

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10. Learned Senior Counsel for the petitioner relied upon 2G Spectrum case in Sanjay Chandra vs. Central Bureau of Investigation, reported in 2012 (1) SCC 40 and submitted that bail should not be refused. In 2G Spectrum case, the Hon'ble Supreme Court granted bail to the accused after almost a year. The Apex Court in the case of Sumit Mehra vs. State of NCT of Delhi, reported in 2013 (11) Scale 374, has stated that though onerous conditions should not be imposed while granting bail, yet in white collared offences, the Court can impose reasonable conditions.

11. Bearing in mind the caution given by the Hon'ble Supreme Court, this Court is of the opinion that since the lease hold stands in the name of this petitioner and by illegally quarrying, he had caused loss to the Government, it will be in the interest of justice, if Solairajan / petitioner in CrI.O.P.(MD) No.3261 of 2015 is directed to deposit a sum of Rs.50,00,000/- before the concerned Magistrate.

12. Accordingly, Solairajan / petitioner in CrI.O.P.(MD) No.3261 of 2015 is ordered to be released on bail, subject to the following conditions:

[a] Solairajan / petitioner in CrI.O.P.(MD) No.3261 of 2015 shall deposit a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) to the credit of Crime No.17 of 2015 before the learned Judicial Magistrate No.I, Madurai, who shall, in turn deposit the same in a Nationalized Bank initially for two years and thereafter, it should be renewed periodically. Learned Magistrate may also pass orders with regard to the disbursement of the amount at the end of the case. This amount is also liable for forfeiture to the Government at the culmination of the recovery proceedings.

[b] On such deposit, Solairajan / petitioner in CrI.O.P.(MD) No.3261 of 2015 shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Madurai;

[c] Solairajan / petitioner in CrI.O.P.(MD) No.3261 of 2015 shall report before the respondent police daily at 10:30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

[d] Solairajan / petitioner in CrI.O.P.(MD) No.3261 of 2015 shall not tamper with evidence or witness either during investigation or trial.



[e] Solairajan / petitioner in Crl.O.P.(MD) No.3261 of 2015 shall not abscond either during investigation or trial.

[f] 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].

13. As regards the petitioners in Crl.O.P.(MD) No.3854 of 2015 are concerned, even according to the prosecution, these petitioners were working as Supervisors and Servants under Solairajan / petitioner in Crl.O.P.(MD) No.3261 of 2015. Hence, this Court is inclined to grant anticipatory bail to them. Accordingly, the petitioners in Crl.O.P.(MD) No.3854 of 2015 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Madurai, on condition that each of 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioners in Crl.O.P.(MD) No.3854 of 2015 shall report before the respondent police daily at 10:30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

[b] the petitioners in Crl.O.P.(MD) No.3854 of 2015 shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners in Crl.O.P.(MD) No.3854 of 2015 shall not abscond either during investigation or trial.

[d] 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].

sd/-

09/03/2015

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE JUDICIAL MAGISTRATE, NO.I, MADURAI

2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE MADURAI

3 THE INSPECTOR OF POLICE DISTRICT CRIME BRANCH POLICE STATION,
MADURAI.

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

5 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.AJMAL ASSOCIATES Advocate SR.No.11280

+1 CC TO M/S.D.ANBARASU, ADVOCATE SR.NO.11044

ORDER
IN
CRL OP(MD) Nos.3261 & 3854 of 2015
Date :09/03/2015

NA/10/03/2015/P5/8C