



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the First day of August Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.11454 of 2016

1 MAHARAJAN

2 MANGALAM @ MANGALRAJ

3 MUTHURAJ

4 ESAKKIMUTHU

... PETITIONERS/ACCUSED No.1,3,4,5

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
SIVALAPERI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO. 123 OF 2016)

... RESPONDENT/COMPLAINANT

FOR PETITIONER : M/S S.PALANI VELAYUTHAM, ADVOCATE

FOR RESPONDENT : MR.P.KANNITHEVAN, GOVERNMENT ADVOCATE (CRL.SIDE)

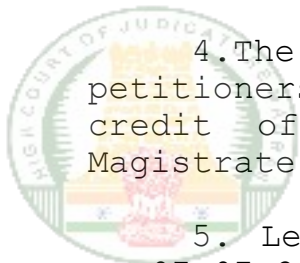
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.1, 3, 4 and 5 apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 IPC read with Section 3 of TNPPDL Act, in Crime No.123 of 2016, on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that on 07.07.2016, when the police party was on patrol duty, they found that three vehicles of TATA 407 bearing Registration Nos.TN-69-AA-3933, TN-72-AL-0486 and TN-69-AD-6781, were in the process of loading lake sand from a public pond. On seeing the police party, A3 to A5 ran away from the place of occurrence. The Police party arrested A2, driver of the vehicle. A1 is the owner of the vehicle. On complaint case has been registered for the above said offences.

3.The case of the petitioners is that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. The first petitioner is the owner of the three vehicles and the other petitioners are coolie workers and they are in no way connected with the alleged occurrence. Only on the confession of A2/driver, the petitioners are falsely implicated in this case.



4.The learned counsel for the petitioners submitted that the petitioners are willing to deposit a sum of Rs.25,000/- each to the credit of Crime No.123 of 2016 before the learned Judicial Magistrate No.III, Tirunelveli, Tirunelveli District.

5. Learned Government Advocate (Criminal side) submitted that on 07.07.2016, when the respondent police party on patrol duty found that the petitioners along with other accused persons, without any permission were transporting sand from a public pond using three vehicles of TATA 407 bearing Registration Nos.TN-69-AA-3933, TN-72-AL-0486 and TN-69-AD-6781. On seeing the police party, A3 to A5 ran away from the place of occurrence. The respondent police seized the vehicle and arrested the driver of the vehicle/A2. He further submitted that A1, owner of the vehicle is having 5 previous cases in similar nature of offences. The respondent police produced the report of the Executive Engineer(PWD), Tenkasi, stating that sand worth about Rs.1,03,224/- were removed from the pond and investigation is pending to find out the involvement of A1 in other cases and raised objection to grant Anticipatory Bail to them.

6.Considering the facts and circumstance of the case and serious nature of allegations made against the first petitioner/A1 and the involvement of A1 in other 5 similar cases, this Court is not inclined to grant Anticipatory Bail to the first petitioner/A1 and accordingly this petition is dismissed for A1.

7. Further, considering the fact that the first petitioner/A1 is the owner of the vehicle and other petitioners are coolie workers, this Court is inclined to grant anticipatory bail to the petitioners 2 to 4/A3 to A5, with certain conditions. Accordingly, they 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.III, Tirunelveli, Tirunelveli District, on condition that the petitioners shall deposit a sum of Rs.25,000/- each, to the credit of Crime No.123 of 2016 before the learned Judicial Magistrate No.III, Tirunelveli, Tirunelveli District and each of them 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) the petitioners shall report before the respondent Police daily at 10.00 a.m. until further orders.
- (ii) the petitioners shall not tamper with evidence or witness either during investigation or trial.
- (iii) the petitioners shall not abscond either during investigation or trial.
- (iv) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been



imposed and the petitioners 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]**.

8.The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioners are complying with the conditions or not.

sd/-
01/08/2016

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE NO.III,
TIRUNELVELI, TIRUNELVELI DISTRICT.
2. THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
SIVALAPERI POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S S.PALANI VELAYUTHAM Advocate SR.No. 41092

ORDER
IN
CRL OP(MD) No.11454 of 2016
Date :01/08/2016

PJL
TE/NGM-MP/SAR-I : 10/08/2016 : 3P/6C