



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

Monday, the Eighteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.12165 of 2017

1 DHARMAN @ DHARMALINGAM
2 SELVARAJ
3 RAJASINGAM

... PETITIONERS / ACCUSED Nos.1,2 & 5

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
THOTTIAM POLICE STATION,
THOTTIAM, TRICHY DISTRICT.
CRIME NO.383 OF 2017

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.T.VADIVELAN Advocate

For Respondent : MR.A.RAMAR Additional Public Prosecutor

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

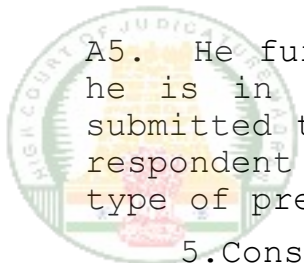
ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent Police for the offence punishable under Sections 379, 294 (b), 353, 506(i) of IPC r/w 21(1) of Mines and Minerals Act and Section 3 of TNPPDL Act in Crime No.383 of 2017 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the accused are said to have illegally quarried sand in the Cauvery river by using JCB, which is owned by the 2nd petitioner and transported through a tipper lorry belongs to A5 in this case and A1 is a labourer.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the petitioners did not commit any offence as alleged by the prosecution and they are no way connected with the alleged offences. He also submitted that on basis of the confession of A3, who is the JCB driver, the petitioners are arrayed as accused in this case and the present case is registered only for the statistical purpose.

4.The learned Additional Public Prosecutor appearing for the respondent Police on instruction would submit that totally there are 3 named and 2 unnamed accused and the petitioners 1 and 2 are arrayed as A1 and A2 respectively and initially, the name of the 3rd petitioner is not found in the FIR and thereafter, he is arrayed as



A5. He further submitted that A3 in this case was arrested and now he is in judicial custody and A4 is still absconding. He also submitted that JCB, tipper lorry along with sand were seized by the respondent Police and the petitioners are not having any similar type of previous cases and the investigation is still pending.

5. Considering the facts and circumstances of the case and also taking note of the fact that JCB, tipper lorry along with sand were seized by the respondent Police and the petitioners are not having similar type of previous case, I am inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of 15 days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Musiri on condition that the petitioners 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 shall report before the learned Judicial Magistrate, Musiri daily at 10.30 a.m. until further orders.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners 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 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).

sd/-

18/09/2017

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE, MUSIRI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
- 3 THE INSPECTOR OF POLICE,
THOTTIAM POLICE STATION, THOTTIAM, TRICHY DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.T.VADIVELAN Advocate SR.No.30944

ORDER IN
CRL OP(MD) No.12165 of 2017
Date :18/09/2017