



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

Tuesday, the Twenty Third day of January Two Thousand Eighteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.1021 of 2018

K.PALANISELVAM

... PETITIONER/ACCUSED No.1

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ETTAYAPURAM POLICE STATION,
TUTICORIN DISTRICT
(CRIME NO.5 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.RAMASAMY for

M/S.K.KULANTHAI VIKRAM Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,

Govt. Advocate (Crl. Side)

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/Accused No.1, who was arrested and remanded to judicial custody on 11.01.2018 for the alleged offences punishable under Section 379 IPC and 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.5 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 11.01.2018 at 6.15 P.M., the Sub Inspector of Police along with other officials conducted routine checkup at perilonpatti village. At that time, they found that six units of sand was illegally transported through the lorry without getting proper permission from the authorities concerned and the driver of the lorry was arrested and based on his confession, the petitioner was implicated in this case. Subsequently, the respondent police have seized the vehicle and the case has been registered against the petitioner and other accused.

3.The learned counsel appearing for the petitioner submitted that the petitioner did not involve the offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the petitioner is neither the owner of the lorry nor the driver and he is no way connected with the offence, and hence he seeks bail.

4. The learned Government Advocate (Criminal side) appearing for the respondent on instructions, would submit that totally six



units of sand worth about Rs.16,000/- was illegally transported through the lorry and the vehicle along with sand has been recovered by the respondent police. The investigation is still pending.

5. The submissions made by the learned counsel on either side are considered. This case has been registered against the petitioner for the offence under Section 379 IPC and 21(1) of the Mines and Minerals (development and Regulation) Act, 1957. According to the prosecution, investigation is not completed. As per the prosecution, the properties used for the commission of offence are recovered. Further, the petitioner is in judicial custody from 11.01.2018. Considering the above said aspects, this Court came to the conclusion that custodial interrogation is not necessary for completing the investigation in this case. Accordingly, this Court is inclined to grant bail to the petitioner. With stringent condition, the petitioner is ordered to be released on bail, subject to the following conditions:

(i) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) in Crime No.5 of 2018 before the Judicial Magistrate No.II, Kovilpatti, without prejudice to his defence before the trial Court.

(ii) 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 learned Judicial Magistrate No.II, Kovilpatti;

(iii) the petitioner shall report before the respondent police, daily at 10.00 a.m., for a period of three weeks;

(iv) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(v) the petitioner shall not commit any offence while on bail;

(vi) the petitioner shall not abscond either during investigation or trial;

(vii) 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 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/-
23/01/2018

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



1. THE JUDICIAL MAGISTRATE NO.II, KOVILPATTI

2. THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI DISTRICT

3. THE INSPECTOR OF POLICE
ETTAYAPURAM POLICE STATION,
TUTICORIN DISTRICT

4. THE OFFICER INCHARGE
DISTRICT JAIL, PEROORANI, TUTICORIN DISTRICT

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

+1. CC to M/S.K.KULANTHAI VIKRAM Advocate SR.No.1133

ORDER

IN

CRL OP(MD) No.1021 of 2018

Date :23/01/2018

SMA/PM-PN/SAR-2/23.01.2017:3P/7c