



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

Thursday, the Twenty Fifth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.1204 of 2018

BABU,

... PETITIONER / ACCUSED NO.2

Vs

THE STATE REP.BY
THE SUB INSPECTOR OF POLICE,
ETTAYAPURAM POLICE STATION,
TUTICORIN DISTRICT.
CR.NO.16 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.SADES KUMAR Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

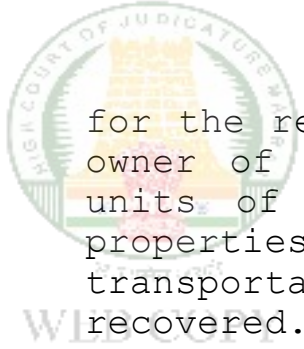
The petitioner/A2, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 379 I.P.C. r/w 21 (1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.16 of 2018, on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant, who is the Sub-Inspector of Police along with his subordinates have intercepted the vehicle, at that time, the driver of the lorry left the vehicle, ran away from the place of occurrence and that it was found, the petitioner has transported 3 units of sand by using Tipper Lorry.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person, he has been falsely implicated, he has not committed any offence as alleged, and pleads for grant of anticipatory bail to the petitioner.

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4.The learned Government Advocate(Criminal Side) appearing



for the respondent police submitted that the petitioner is the owner of the vehicle and he has illegally transported the 3 units of river sand. He further submitted that the stolen properties as well as the lorry, which was used for transportation of 3 units of river sand, illegally, has been recovered. According to him, investigation is not completed.

5.The submissions made by the learned counsel on either side are considered, it is alleged that during the time of occurrence, the petitioner committed the theft of river sand to the tune of 3 units. As of now, the property, which was used for the commission of offence has been recovered. Hence, custodial interrogation of the petitioner is not necessary for completing the investigation. However, considering the quantity of the river sand, which was stolen away by the petitioner and also considering the fact that the petitioner is the owner of the vehicle, this Court has imposed some stringent condition for granting anticipatory bail to the petitioner. Accordingly, he is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, No.II, Kovilpatti, Tuticorin District, on condition that 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 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 petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.16 of 2018 before the Judicial Magistrate, No.II, Kovilpatti, Tuticorin District, without prejudice his defence before the Trial Court.

(ii) the petitioner shall report before the respondent police daily at 10.00 a.m for a period of three weeks and thereafter as and when required for interrogation.

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioner shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner

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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].

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sd/-
25/01/2018

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

IA/MSA
TO

- 1 THE JUDICIAL MAGISTRATE NO.II, KOVILPATTI,
TUTICORIN DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE,
ETTAYAPURAM POLICE STATION, TUTICORIN DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.SADES KUMAR Advocate SR.No.1391

GJM/CM/VR/SAR-I-30.1.18-3P-6C

ORDER
IN
CRL OP(MD) No.1204 of 2018
Date :25/01/2018