



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.1238 of 2018

1 CHITHIRAVELU
2 SURESH

... PETITIONERS/ ACCUSED NO.3 & 4

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ETTAYAPURAM POLICE STATION,
THOOTHUKUDI DISTRICT,
IN CR.NO. 19/2018

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.V.MALAIYENDRAN Advocate

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

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

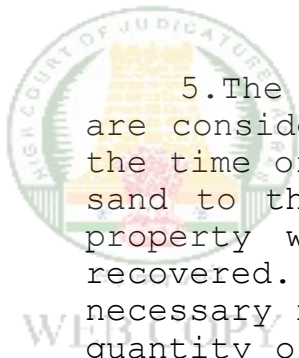
ORDER : The Court Made the following order :-

The petitioners/A3 & A4, who apprehend arrest at the hands of the respondent Police for the offence punishable under Section 379 I.P.C. and Section 21 (1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.19 of 2018, on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant, who is the Village Administrative Officer, has intercepted the vehicle, at that time, the first petitioner/A3, driver of the lorry left the vehicle, ran away from the scene of occurrence and that it was found to be transported two units of sand by using the Lorry.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, they have been falsely implicated in this case, they have not committed any offence as alleged, and pleads for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that A3 is the driver and A4 is the owner of the lorry. The stolen properties as well as the lorry has been recovered by the respondent police. According to him, investigation is not completed.



5. The submissions made by the learned counsel on either side are considered. According to prosecution, it is alleged that during the time of occurrence, the petitioners committed the theft of river sand to the tune of two units by using the lorry. As of now, the property which was used for the commission of offence has been recovered. Hence, custodial interrogation of the petitioners 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 second petitioner/A4 being the owner of the vehicle, permitted to use the lorry which was found by him for the commission of offence, this Court has imposed some stringent condition for granting anticipatory bail to the second petitioner/A4. 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.II, Kovilpatti, Tuticorin District, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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 second petitioner/A4 shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.19 of 2018 before the Judicial Magistrate, No.II, Kovilpatti, Tuticorin District, without prejudice his defence before the Trial Court.

(ii) the petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial.

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

(v) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioners shall stand automatically cancelled and 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/-
25/01/2018

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ia/msa
TO

1 THE JUDICIAL MAGISTRATE NO.II, KOVILPATTI,
TUTICORIN DISTRICT

2 DO THOROUGH THE CHIEF JUDICIAL MAGISTRATE
TUTICORIN DISTRICT

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

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

+1. CC to M/S.V.MALAIYENDRAN Advocate SR.No.1396

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

ORDER

IN

CRL OP(MD) No.1238 of 2018

Date :25/01/2018