



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

Friday, the Fifth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.137 of 2018

MAHESH @ MAHESHKUMAR

... PETITIONER/SOLE ACCUSED

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
THUVAKUDI POLICE STATION,
THUVAKUDI, TRICHY DISTRICT
(CRIME NO.423 OF 2017)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.KARANTHARAJA Advocate

For Respondent : MR.K.S.DURAI PANDIAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 379 of IPC and r/w. Section 21(4) of Mines and Minerals (Development and Regulations) Act, 1957, in Crime No.423 of 2017, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 28.12.2017, while the police personnel was on regular vehicle check up, they found that the petitioner has illegally transported 2 units of river sand through lorry bearing Registration No.TN-72-A-8155. Based on the compliant, case has been registered for the above said offences.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that he has been falsely implicated in this case.

4. The learned Additional Public Prosecutor appearing for the respondent on instructions, would submit that the lorry involved in the alleged occurrence was seized by the respondent police and the investigation is still pending.

5. The submissions made by either side are considered. During the time of alleged occurrence, the petitioner herein taken away 2 units of sand from the river through lorry bearing Registration No.TN-72-A-8155, without getting any permission from the concerned



authority. According to the prosecution, the lorry which was used for the commission of offence was recovered. So, custodial interrogation is not necessary for completing the investigation. However, considering the nature of offence committed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with some stringent conditions. Accordingly, the petitioner 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 on which the order copy is made ready, before the learned Judicial Magistrate No.VI, Trichy, 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.5,000/- (Rupees Five Thousand only) to the credit of Crime No.423 of 2017 before the learned Judicial Magistrate No.VI, Trichy, without prejudice to his defence before the trial Court. After such deposit, the trial Court shall accept the sureties furnished by the petitioner.

(ii) the petitioner shall report before the investigation officer, daily at 10.00 a.m., for a period of one month and thereafter as and when required;

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

(iv) the petitioner shall make himself available for interrogation including custodial interrogation as and when required by the investigation officer;

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

(vi) 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 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].

sd/-

05/01/2018

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



1 THE JUDICIAL MAGISTRATE NO.IV, TRICHY

2 THE CHIEF JUDICIAL MAGISTRATE
TRICHIRAPALLI

3 THE INSPECTOR OF POLICE
THUVAKUDI POLICE STATION,
THUVAKUDI, TRICHY DISTRICT

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

+1. CC to M/S.KARANTHARAJA Advocate SR.No.243

ORDER
IN
CRL OP(MD) No.137 of 2018
Date :05/01/2018

SMA/VR/SAR-2/08.01.2018:3P/6c