



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

Thursday, the First day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.1542 of 2018

T. MUTHAIAH @ SKAILAB

... PETITIONER / 1st ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SIVAGIRI POLICE STATION,
SIVAGIRI TALUK,
TIRUNELVELI DISTRICT ,
IN CR.NO. 38/2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.C.BASKARAN Advocate

For Respondent : Mr.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

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

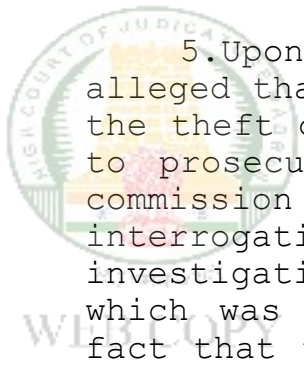
ORDER : The Court Made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent Police for the offence punishable under Section 379 I.P.C., in Crime No.38 of 2018, on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the respondent police has intercepted the petitioner while taking $\frac{3}{4}$ unit of sand from the Periyadaiperi Channel (Odai) with the help of his own unregistered New Holland Tractor with trailer bearing Registration No.TN-72-T-4341.

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

4.The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the petitioner herein is the owner cum driver of the vehicle. The stolen properties as well as the tractor with trailer have been recovered by the respondent police. According to him, investigation is still pending.



5. Upon considering the arguments advanced by either side, it is alleged that during the time of occurrence, the petitioner committed the theft of Odai sand by using the Tractor with trailer. According to prosecution, 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 Odai sand, which was stolen away by the petitioner and also considering the fact that the petitioner/A1 being the owner of the vehicle, this Court has imposed some stringent condition for granting anticipatory bail to the petitioner/A1. 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, Sivagiri, Tirunelveli 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/A1 shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.38 of 2018 before the Judicial Magistrate, Sivagiri, Tirunelveli 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 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/-
01/02/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE,
SIVAGIRI, TIRUNELVELI DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT

3 THE INSPECTOR OF POLICE
SIVAGIRI POLICE STATION,
SIVAGIRI TALUK,
TIRUNELVELI DISTRICT ,

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

+1. CC to M/S.C.BASKARAN Advocate SR.No.1898

JAM/12/02/2018/RR-CSL SAR 4/ 3P-6C

ORDER

IN

CRL OP (MD) No.1542 of 2018

Date :01/02/2018