



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

Thursday, the Eighth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.2012 of 2018

1 RUBAN

2 SUBBURAJ

... PETITIONERS / ACCUSED NO.2 & 3

Vs

THE STATE, REP.BY
THE INSPECTOR OF POLICE
VILATHIKULAM POLICE STATION,
THOOTHUKUDI DISTRICT,
IN CR.NO. 16/2018

... RESPONDENT/ COMPLAINANT

For Petitioners : M/S.G.THALAIMUTHARASU 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 /A2 & A3, who apprehend arrest at the hands of the respondent Police for the offence punishable under Section 379 I.P.C., and Section 21(i) of Tamil Nadu Mines and Minerals Act, in Crime No.16 of 2018, seek anticipatory bail.

2.The case of the prosecution is that on 05.01.2018, when the defacto complainant, who is the Village Administrative Officer along with his subordinates were conducting raid, at that time, they found that the accused persons have illegally transported half unit of sand by using the Tipper Lorry bearing Registration No.TN-69-AF-0084. After seeing the defacto complainant, they ran away from the place of occurrence. Hence, case has been registered for the above said offence.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, they have been falsely implicated in this case, further added that they have not 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 State submitted that the first petitioner is the driver and second petitioner is the owner of the lorry. The stolen properties which was used for the commission of offence had 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 petitioners committed the theft of sand by using the Tipper lorry. According to prosecution, as of now, the property which was used for the commission of offence had been recovered. Hence, custodial interrogation of the petitioners may not be necessary for completing the investigation. However, considering the fact that the second petitioner/A3 being the owner of the vehicle, permitted to use the lorry for the commission of offence, hence, this Court has decided to impose some stringent condition for granting anticipatory bail to the second petitioner/A3. 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, Vilathikulam, on condition that the petitioner 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:

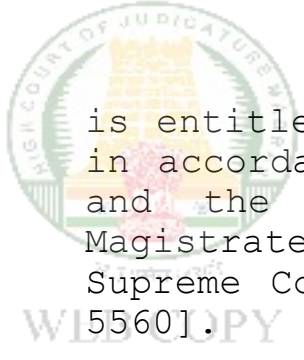
(i) The second petitioner/A3 shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.16 of 2018 before the Judicial Magistrate, Vilathikulam, without prejudice his defence before the Trial Court.

(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/-
08/02/2018

/ TRUE COPY /

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

MSA
TO

- 1 THE JUDICIAL MAGISTRATE, VILATHIKULAM,
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TUTICORIN DISTRICT.
- 3 THE INSPECTOR OF POLICE
VILATHIKULAM POLICE STATION, THOOTHUKUDI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.G.THALAIMUTHARASU Advocate SR.No.2154

GJM/CSL/RR/SAR-2-14.2.18-3P-6C

ORDER
IN
CRL OP(MD) No.2012 of 2018
Date :08/02/2018