



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

Friday, the Ninth day of February Two Thousand Eighteen

PRESENT

**The Hon`ble Mr.Justice R.PONGIAPPAN**

CRL OP(MD) No.2076 of 2018

1 S.KUMAR @ NANDAKUMAR  
2 O.MURUGAIAH @ MURUGAN  
3 M.MARIDURAI

... PETITIONERS / ACCUSED NO.1,3,4

Vs

THE STATE REP.BY,  
THE INSPECTOR OF POLICE  
PULIYANKUDI POLICE STATION,  
TIRUNELVELI DISTRICT  
(CRIME NO. 46 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioners:M/S.M.BOOPATHI PANDIYAN Advocate

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

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

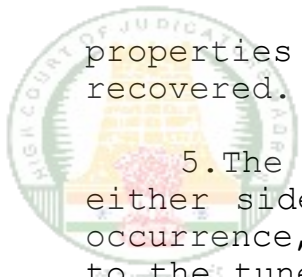
ORDER : The Court Made the following order :-

The petitioners/A1, A3 & A4, who apprehend arrest at the hands of the respondent Police for the offence punishable under 379 I.P.C., in Crime No.46 of 2018, seek anticipatory bail.

2.The case of the prosecution is that on 30.01.2018, based on the secret information, the defacto complainant, who is the Sub Inspector of Police along with his police parties was conducting the vehicle check up, at that time, they found that the petitioners had transported the Odai sand by using the Swaraj 735 FE Tractor. On seeing the police, the petitioners ran away from the place of occurrence. Hence, case has been registered against the petitioners for the above said offences.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, they have been falsely implicated, further added that 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 State submitted that totally there are four accused in this case. The petitioners herein are arrayed as A1,A3 and A4. A3 & A4 are labours and A1 is the owner of the vehicle. The stolen



properties which was used for the commission of offence has been recovered. According to him, investigation is still pending.

5. The submissions made by the learned counsel appearing on either side are considered. It is alleged that during the time of occurrence, the petitioners herein committed the theft of Odai sand to the tune of  $\frac{1}{4}$  unit. A2 & A3 are labours and A1 is the owner of the vehicle. According to prosecution, as of now, the property, which was used for the commission of offence has been recovered. Hence, custodial interrogation of the petitioners may not be necessary for completing the investigation. However, considering the fact that the petitioner/A1 being the owner of the vehicle, permitted to use the lorry which was used for the commission of offence, this Court has decided to impose some stringent condition for granting anticipatory bail to the petitioner/A1. 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, Sivagiri, Tirunelveli District, 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 petitioner/A1 shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.46 of 2018 before the Judicial Magistrate, Sivagiri, Tirunelveli 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/-

09/02/2018

/ TRUE COPY /

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



TO

1 THE JUDICIAL MAGISTRATE,  
SIVAGIRI, TIRUNELVELI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE  
PULIYANKUDI POLICE STATION, TIRUNELVELI DISTRICT.

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

+1. CC to M/S.M.BOOPATHI PANDIYAN Advocate SR.No.2210

ORDER

IN

CRL OP(MD) No.2076 of 2018

Date :09/02/2018

MKV-CM-SAR 4/13.2.2018/3P-6C