



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

Friday, the Sixteenth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.2512 of 2018

BALAKRISHNAN,

... PETITIONER/ACCUSED No.2

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
PALLAVOOR POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.39 OF 2018)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.SUBASH BABU Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,

Govt. Advocate (Crl. Side)

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

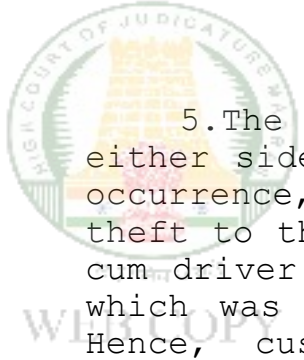
ORDER : The Court Made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent Police for the offence punishable under 379 I.P.C., r/w Section 2(1) of Mines and Minerals Act in Crime No.39 of 2018., in Crime No.39 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that on 13.02.2018, based on the secret information, the defacto complainant, who is the Inspector of Police was in a routine vehicle check up, at that time, they found that the petitioner and other accused persons had transported the half unit of river sand by using the Tempo bearing Registration No.TN-74-AR-7966. On seeing the police, the accused persons ran away from the place of occurrence. Hence, case has been registered against the petitioner and other accused for the above said offences.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person, he has been falsely implicated, further added that 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 State submitted that the petitioner herein is the owner cum driver of the vehicle. The stolen property and the vehicle, which was used for the commission of offence had 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 petitioner and other accused committed the sand theft to the tune of half unit. The petitioner herein is the owner cum driver of the vehicle. As of now, the property and the vehicle which was used for the commission of offence had been recovered. Hence, custodial interrogation of the petitioner may not be necessary for completing the investigation. However, considering the quantity of river sand and also considering the fact that the petitioner/A2 being the owner of the vehicle was illegally taking sand from the river bed, this Court decided to impose some stringent condition for granting anticipatory bail to the petitioner/A2. 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, Valliyur, 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.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.39 of 2018 before the Judicial Magistrate, Valliyur, 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.

(i) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iii) the petitioner shall not abscond either during investigation or trial.

(iv) 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/-
16/02/2018

/ TRUE COPY /

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



1 THE JUDICIAL MAGISTRATE,
VALLIYUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT

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

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

+1. CC to M/S.M.SUBASH BABU Advocate SR.No.2743

ORDER

IN

CRL OP (MD) No.2512 of 2018

Date :16/02/2018

SMA/PM-PN/SAR-4/26.02.2018:3P/6C