



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

Wednesday, the Twenty Eighth day of February Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.3136 of 2018

1 SARAVANAN
2 GOPAL

... PETITIONERS/ACCUSED
RANK NOT KNOWN

Vs

THE INSPECTOR OF POLICE,
ATHOOR POLICE STATION,
ATHOOR, THOOTHUKUDI DISTRICT.
(CRIME No.5 OF 2018)

... RESPONDENT/COMPLAINANT

FOR PETITIONERS : Mr.N.PRAGALATHAN 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, who apprehend arrest at the hands of the respondent Police for the offence punishable under Section 379 I.P.C., (Sand Theft), in Crime No.5 of 2018, seek anticipatory bail.

2.The case of the prosecution is that on 22.01.2018, when the respondent police was conducting the vehicle check up, at that time, they found that the petitioners herein had illegally transported the two units of river sand by using the Mini Lorry and Tipper Van without any permit. Hence, a 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 in this case, 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 the first petitioner is the labourer and the second petitioner is the owner of the vehicle. As of now, the stolen properties and the vehicle, which was used for the commission of offence, had been recovered as a part of investigation. 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 committed the sand theft to the tune of two units. First petitioner is the labourer and second petitioner is the owner of the vehicle. According to prosecution, as of now, the stolen property as well as the vehicle, which were used for the commission of offence have been recovered. Hence, custodial interrogation of the petitioners may not be necessary for completing the investigation. However, considering the fact that the second petitioner being the owner of the vehicle, permitted to use the vehicle, which was used for the commission of offence, this Court has decided to impose some stringent condition for granting anticipatory bail to the second petitioner. 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, Tiruchendur, Thoothukudi, on condition that the petitioners 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 shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.05 of 2018 before the Judicial Magistrate, Tiruchendur, Thoothukudi, 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].

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sd/-
28/02/2018

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
TIRUCHENDUR, THOOTHUKUDI.
2. THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
ATHOOR POLICE STATION,
ATHOOR, THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+2. CC to M/S.N.PRAGALATHAN, Advocate SR.Nos. 3222, 3314

ORDER
IN
CRL OP(MD) No.3136 of 2018
Date :28/02/2018

MSA
TE/CM-VR/SAR-1 : 02/03/2018 : 3P/7C