



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

Friday, the Second day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.3249 of 2018

1 SAMYDURAI
2 SIVALINGAM
3 SATHISH

... PETITIONERS/ ACCUSED NO.1 TO 3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
PALAVOOR POLICE STATION,
IN CR.NO.48/2018,
TIRUNELVELI DISTRICT

... RESPONDENT/ COMPLAINANT

For Petitioners : M/S.M.SUBASH BABU 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 are arrayed as accused nos.1 to 3, apprehending arrest at the hands of the respondent police for the offences punishable under Section 379 of IPC r/w. 21(i) of Mines and Minerals Act, in Crime No.48 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that the petitioners herein are said to have transported one unit of Odai Sand, illegally, by using Tempo bearing Regn. No.TN 74 AD 1492. Thus, on complaint, a case has been registered against the petitioners.

3.The learned counsel appearing for the petitioners would submit that the petitioners are the innocent persons and they have not committed any offence as alleged by the prosecution.

4.The learned Government Advocate (Criminal Side) appearing for the State would submit that the first petitioner is having 8 previous cases and the property which was used for the commission of offence was recovered and the investigation of the case is 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 nos. 2 and 3 committed theft of Odai sand by using Lorry, which belongs to the first petitioner herein. As of now, the vehicle which was used for commission of offence and the stolen properties are recovered. According to the prosecution, the first petitioner / A1 is having following 8 previous cases:

S.No	Crime No.	Offences
1	80/2009	294(b), 323, 506(ii) of IPC
2	254/2011	379 IPC & 4(i)(ii)(1-A) r/w. 21 of MMRD Act
3	158/2014	279, 294(b), 353, 379, 307 of IPC r/w. 21(1) MMRD Act
4	185/2014	107 Cr.P.C
5	118/2016	151 Cr.P.C., r/w. 7(1)CLA Act LF
6	24/2015	294(b), 353, 379 of iPC r/w. 21(1) of MMRD Act
7	189 of 2016	294(b), 353, 379 of IPC r/w. 21(1) of MMRD Act
8	132 of 2017	107 Cr.P.C

So the number of cases pending against the first petitioner shows that he is a habitual offender, thereby, this Court is not inclined to grant anticipatory bail to the first petitioner / A1. Accordingly, **this Criminal Original Petition is dismissed as against the first petitioner / Samydurai.**

6. Having regard to the facts and circumstances that the petitioner nos.2 and 3 are being the first offender, this Court is inclined to grant anticipatory bail to the petitioner nos.2 and 3/A2 and A3. Accordingly, the petitioner nos.2 and 3 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, Valliyoor, on condition that each of the petitioners 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 nos. 2 and 3 shall report before the respondent police, daily at 6.00 pm. for a period of three weeks and thereafter, as and when required for interrogation;

(ii) the petitioner nos. 2 and 3 shall not tamper with evidence or witness or go in/visit the place during investigation or trial.



(iii) the petitioner nos. 2 and 3 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/-
02/03/2018

/ TRUE COPY /

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

trp
TO

- 1 THE JUDICIAL MAGISTRATE, VALLIYOOR
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT
 - 3 THE INSPECTOR OF POLICE
PALAVOOR POLICE STATION, IN CR.NO.48/2018,
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.3433
- GJM/CM/VR/SAR-4-12.3.18-3P-6C

ORDER
IN
CRL OP(MD) No.3249 of 2018
Date :02/03/2018