



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

Tuesday, the Ninth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.326 of 2018

1 BALASUBRAMANIAN
2 GANDHI

... PETITIONERS/ ACCUSED 5 & 6

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KADAYANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.448 OF 2017)

... RESPONDENT / COMPLAINANT

For Petitioners: M/S.D.VENKATESH, Advocate
For Respondent : M/S.S.BHARATHI, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

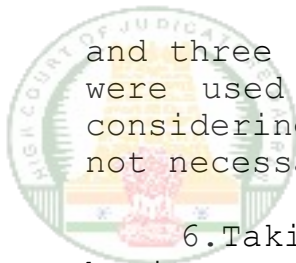
The petitioners, who apprehend arrest at the hands of the respondent Police for the offence punishable under Section 379 (sand) IPC in Crime No.448 of 2017 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners have illegally transported one unit of sand without permission by using one JCB and three tractors.

3.The learned counsel appearing for the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the petitioners have not committed any offence as alleged by the prosecution and they are no way connected with the offences, and pleads for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.side) submitted that the JCB and three tractors, which were used for the commission of offence, were seized and the investigation is still pending.

5.The submissions made by the learned counsel on either side are considered. This case has been registered for the offence punishable under Section 379 (sand) IPC. It is alleged that during the time of occurrence, this petitioners along with other accused committed the theft of the sand to the tune of one unit by using JCB



and three tractors. As per the prosecution, those properties, which were used for commission of offence, were seized. Accordingly, considering the stage of investigation, custodial interrogation is not necessary for completing the investigation.

6. Taking all the above said aspects into consideration and having regard to the nature of offence, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. 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, Tenkasi 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 petitioners shall report before the respondent Police daily at 10.30 a.m. for a period of one month and thereafter, as and when required for interrogation.

(ii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

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

(iv) 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/-

09/01/2018

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

TO

1. THE JUDICIAL MAGISTRATE, TENKASI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.
3. THE INSPECTOR OF POLICE,
KADAYANALLUR POLICE STATION, TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.D.VENKATESH Advocate SR.No.490

ORDER IN

CRL OP(MD) No.326 of 2018

Date :09/01/2018