



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.3354 of 2018

C.NIVESH KUMAR

... PETITIONER/ACCUSED
RANK NOT KNOWN

Vs

STATE THROUGH THE INSPECTOR OF POLICE,
LALAPETTAI POLICE STATION,
KARUR DISTRICT
(IN CRIME NO. 369 OF 2017)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.S.M.A.JINNAH, Advocate

For Respondent : M/S.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 petitioner, who is arrayed as accused, apprehending arrest at the hands of the respondent Police for the offences punishable under Section 21 (1) of Mines and Minerals (Development and Regulation) Act, 1957 r/w. 379 of IPC in Crime No.369 of 2017, seeks anticipatory bail.

2.The case of the prosecution is that, when the respondent Police was conducted ride, the petitioner and other accused, alleged to have transported the river sand by using three Lorries bearing Regn. Nos.TN 33 AZ 9949, TN 28 BY 2714, TN 32 AE 4956 with JCB bearing Regn. No.TN 33 BT 1677. Thus, on complaint, a case has been registered against the petitioners.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person, he has been falsely implicated in this case, 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 respondent police submitted that the stolen properties as well as the Lorries have been recovered by the respondent police. He would further submit that the petitioner is a first offender and the co-accused were already enlarged on bail by this Court in

Crl.O.P(MD).No.16224 of 2017, dated 27.11.2017 and the investigation is not yet completed.

5.The submissions made by the learned counsel on either side are considered. According to prosecution, it is alleged that, during the time of occurrence, the petitioner and other accused committed the theft of river sand by using three Lorries. As of now, the properties which were used for the commission of offence have been recovered. Hence, the custodial interrogation of the petitioner is not necessary for completing the investigation. However, considering the quantity of the river sand, which was stolen away by the petitioner and also considering the fact that the petitioner being the owner of the vehicle, permitted to use the lorries which were found by him for the commission of offence, this Court has imposed some stringent condition for granting anticipatory bail to the petitioner. Accordingly, the petitioner 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 No.I, Kulithalai, Karur District, 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.30,000/- (Rupees Thirty Thousand only) to the credit of Crime No.369 of 2017 on the file of the learned Judicial Magistrate No.I, Kulithalai, Karur District, 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.

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

(iv)the petitioner 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/-

02/03/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO.I,
KULITHALAI, KARUR DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT

3 THE INSPECTOR OF POLICE,
LALAPETTAI POLICE STATION, KARUR DISTRICT .

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

+1. CC to M/S.S.M.A.JINNAH Advocate SR.No.3390

ORDER

IN

CRL OP(MD) No.3354 of 2018

Date :02/03/2018

PK/RR-CSL/SAR-2/12.03.2018 : 3P/6C