



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

Friday, the Ninth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.3722 of 2018

1 ARUMUGAM
2 ESAKKI

... PETITIONERS/ACCUSED No.2 & 5

Vs

THE STATE REP BY ITS
THE INSPECTOR OF POLICE
SIVAGIRI POLICE STATION,
TIRUNELVELI DISTRICT
(CRIME NO. 71/2018)

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.M.S.JEYAKARTHIK 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 petitioners are arrayed as A2 and A5 in Crime No.71 of 2018 on the file of respondent police. They apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 379 I.P.C., they have filed this petition, seeking relief for granting anticipatory bail.

3.The case of the prosecution is that on 05.03.2018, while the Sub Inspector of Police along with police party were in patrol duty with regard to sand theft, they intercepted four motor bikes came and found that the vehicle were loaded with river sand. At that time, the petitioners/A2 and A5 was escaped from the spot. Thereafter, the case has been registered against the petitioners.

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

5.The learned Government Advocate (Criminal Side) submitted that the vehicles along with river sand has been recovered by the respondent police.



6. Considering the submissions made by the learned counsel appearing on either side are considered. It appears that the offence under Section 379 I.P.C., has been registered against the petitioners. During the time of alleged occurrence, the petitioners illegally transported the 36 plates of river sand by using the motor bikes and the same have been recovered. Hence, custodial interrogation may not be necessary for completing the investigation. Therefore, for the reasons stated above, this Court is inclined to grant anticipatory bail to the petitioners subject to 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, Sivagiri, 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 10.00 a.m for a period of three weeks, 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 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/-
09/03/2018

/ TRUE COPY /

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



TO

1 THE JUDICIAL MAGISTRATE,
SIVAGIRI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT

3 THE INSPECTOR OF POLICE
SIVAGIRI POLICE STATION, TIRUNELVELI DISTRICT

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

+1. CC to M/S.M.S.JEYAKARTHIK Advocate SR.No.3843

ORDER

IN

CRL OP(MD) No.3722 of 2018

Date :09/03/2018

SMA/VR/SAR-2/19.03.2018:3P/6c