



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

Thursday, the First day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.400 of 2018

1 MARIRAJA @ GUNA

2 MARI

... PETITIONERS / ACCUSED Nos.2&3

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SRIVAIKUNDAM POLICE STATION,
THOOTHUKUDI DISTRICT.
IN CRIME NO.303/2017

... RESPONDENT / COMPLAINANT

For Petitioners : Mr.M.JEGADEESH PANDIAN Advocate

For Respondent : Mr.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/A2 and A3, who apprehend arrest at the hands of the respondent Police for the offence punishable under Section 147, 379 I.P.C., r/w 3 of TNPPDL Act, in Crime No.303 of 2017, on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that based on the information, on 14.09.2017, the Special Sub Inspector of police conducted the inspection at Tamirabarani River, at that time, they found that 9 persons have loaded the sand by using the Tractor bearing Registration No.TN-69-AJ-7695, on seeing the police, they fled away from the scene of occurrence.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, they have been falsely implicated in this case, 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 respondent police submitted that the stolen property which was involved during the time of occurrence has been recovered by the respondent police. He further submitted that there are 8 previous case is pending against the first petitioner/A2. According to him,



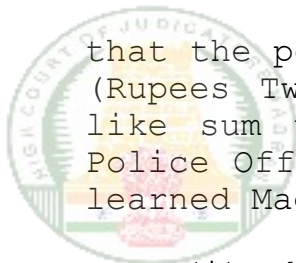
investigation is still pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Upon considering the arguments advanced by either side, it is alleged that during the time of occurrence, the petitioners along with A1 committed the offence of sand theft. According to prosecution, the property which was involved in the commission of offence has been recovered. However, considering the submission made by the learned Government Advocate (Crl. Side) that the first petitioner/A2 in this case is having 8 following previous cases.

Seri l No.	Details of case
1.	For the offence under Sections 341, 323, 324, 427 and 506(ii) I.P.C., in Crime No.220 of 2010 on the file of the Srivaikundam Police Station.
2.	For the offence under Sections 379 I.P.C., & 21(1) of Mines and Minerals Act in Crime No.228 of 2011 on the file of the Srivaikundam Police Station.
3.	For the offence under Sections 353, 379, 506(ii) I.P.C., & Sections 21(1) of Mines and Minerals Act, in Crime No.270 of 2012 on the file of the Srivaikundam Police Station.
4.	For the offence under Sections 294(b), 323 and 506(i) I.P.C., in Crime No.03 of 2015 on the file of the Srivaikundam Police Station.
5.	For the offence under Sections 147, 148, 384, 294(b), 307 and 506(ii) I.P.C., in Crime No.10 of 2015 on the file of the Srivaikundam Police Station.
6.	For the offence under Sections 294(b), 384, 307 and 506(ii) I.P.C., in Crime No.52 of 2015 on the file of the Srivaikundam Police Station.
7.	For the offence under Sections 294(b), 387, 506(ii) I.P.C., in Crime No.313 of 2015 on the file of the Srivaikundam Police Station.
8.	For the offence under Sections 379 I.P.C., & 21(1) of Mines and Minerals Act, in Crime No.315 of 2015 on the file of the Srivaikundam Police Station.

So, considering the number of cases pending against the first petitioner/A2, this Court is not inclined to grant anticipatory bail to the first petitioner/A2. According to A2 is concerned, this Criminal Original Petition is dismissed.

6. According to second petitioner/A3 is concerned, custodial interrogation of the second petitioner is not necessary for completing the investigation. Hence, this Court is inclined to grant anticipatory bail to the second petitioner/A3. Accordingly, the second petitioner/A3 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, Srivaikundam, Thoothukudi District, 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 second petitioner/A3 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.

(ii) the second petitioner/A3 shall not tamper with evidence or witness either during investigation or trial.

(iii) the second petitioner/A3 shall not abscond either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the second petitioner/A3 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/-
01/02/2018

/ TRUE COPY /

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

TO

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

+1. CC to M/S.P.MUTHU PANDI Advocate SR.No.1940

MSA

JAM/07/02/2018/PM-PN/ SAR 1 / 3P-6C

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ORDERIN
CRL OP(MD) No.400 of 2018
Date :01/02/2018