



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

Monday, the Nineteenth day of March Two Thousand and Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.4265 of 2018

GURUSAMY

... PETITIONER / ACCUSED (A5)

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
SIVAGIRI POLICE STATION,
TIRUNELVELI DISTRICT.
(CR.NO.345 OF 2017)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.D.SELVAKUMAR, Advocate
For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Govt. Advocate (Crl. Side)

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

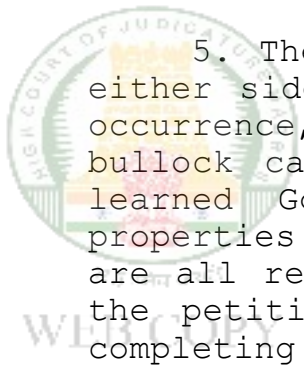
ORDER : The Court Made the following order :-

The petitioner/Accused No.5, who apprehends arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC, in Crime No.345 of 2017, seeks anticipatory bail.

2. The case of the prosecution is that while the Sub-Inspector of Police attached to Sivagiri Police Station, Tirunelveli, along with his police party conducting raid in and around Maruthapillai Dam in Rajasingaperi, Manalvari River, at that time, they found that the petitioner illegally transported sand through the bullock cart and two-wheeler without getting any valid permission from the appropriate authority. Hence, the case has been registered for the above said crime.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Hence, he prays for anticipatory bail for the petitioner.

4. The learned Government Advocate (Criminal side) appearing for the State submitted that the properties were recovered by the respondent police and the investigation is still pending. He further submitted that the petitioner is the owner of the two-wheeler.



5. The submissions made by the learned counsels appearing for either side are considered. It is alleged that during the time of occurrence, the petitioner committed theft of sand by using a bullock cart and two wheeler. As per the submission made by the learned Government Advocate (Criminal Side), as of now, the properties which were used for the commission of offence and sand are all recovered. Considering the nature of offence committed by the petitioner, custodial interrogation may not be necessary for completing the investigation. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. 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, Sivagiri, 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 being the owner of the vehicle shall deposit a sum of Rs.5,000/- (Rupees five thousand only) to the credit of Crime No.345 of 2017, before the learned Judicial Magistrate, Sivagiri, without prejudice to 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 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 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/-
19/03/2018

/ 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,
THIRUNELVELI 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.S.D.SELVAKUMAR, Advocate SR.No.4295.

ORDER

IN

CRL OP(MD) No.4265 of 2018

Date :19/03/2018

SDS/PN/SAR.2/20.03.2018/3P/6C