



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

Wednesday, the Tenth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.439 of 2018

1 KANNAN @ KUTTA KANNAN,
2 KUMAR,

... PETITIONERS/ACCUSED No.2 & 3

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
MUKKUDAL POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.2/2018)

... RESPONDENT/ COMPLAINANT

For Petitioners : M/S.R.ANAND 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 :-

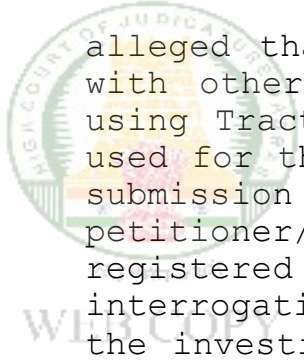
The petitioners/A2 and A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 of IPC, in Crime No.2 of 2018, on the file of the respondent police seek anticipatory bail.

2. The case of the prosecution is that the petitioners transported one unit of river sand by using Tractor without obtaining any valid permission from the appropriate authority. Hence, the present complaint has been registered against the petitioner.

3. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution.

4. The learned Government Advocate(Crl.side) appearing for the State submitted that the petitioners along with other accused persons transported one unit of river sand through Tractor. She further submitted that the investigation is still pending.

5. The submissions made by the learned counsel appearing on either side are considered. This case been registered against the petitioners for the alleged offence under Section 379 of IPC. It is



alleged that during the time of occurrence, the petitioners along with other accused committed theft of one unit of river sand by using Tractor. Now, the stolen property and the vehicle, which was used for the commission of offence, have been recovered. As per the submission the learned Government Advocate (Criminal side) the first petitioner/A2 herein having two previous cases and those cases are registered for the similar nature of offence. Hence, custodial interrogation of the first petitioner is necessary for completing the investigation. **Accordingly, this Criminal Original Petitions is dismissed against the first petitioner/A2.**

6. Considering the above, this Court is inclined to grant anticipatory bail to the second petitioner/A3 with certain conditions. Accordingly, the second 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, Cheranmahadevi, Tirunelveli District, on condition that the second 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 shall report before the respondent police daily at 10.00 a.m., for a period of one month and thereafter, as and when required for interrogation;

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

(iii) the second petitioner shall not abscond either during investigation or trial;

(iv) the second petitioner shall not commit any offence while on bail;

(v) on breach of any of the aforesaid conditions, the Magistrate/Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second 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/-
10/01/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE,
CHERANMAHADEVI, TIRUNELVELI DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT

3 THE INSPECTOR OF POLICE,
MUKKUDAL POLICE STATION,
TIRUNELVELI DISTRICT.

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

+1. CC to M/S.R.ANAND Advocate SR.No.512

ORDER

IN

CRL OP(MD) No.439 of 2018

Date :10/01/2018

SMA/CM-VR/SAR-2/08.01.2018:3P/6c