



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

Friday, the Twelfth day of January Two Thousand Eighteen

PRESENT

**The Hon`ble Mr.Justice R.PONGIAPPAN**

**CRL OP(MD) No.651 of 2018**

1 BALAN  
2 AYYAPPAN  
3 PRASAD @ JEYAPRAKASH  
4 SASIKUMAR

... PETITIONERS/ACCUSED 3-6

Vs

THE INSPECTOR OF POLICE,  
CUMBUM SOUTH POLICE STATION,  
THENI DISTRICT.  
IN CRIME NO.10/2018

... RESPONDENT/COMPLAINANT

For Petitioners : M/S.P.MAHENDRAN Advocate

For Respondent : M/S.K.SUYAMBULINGA BHARATHI,  
Government Advocate (Crl.Side)

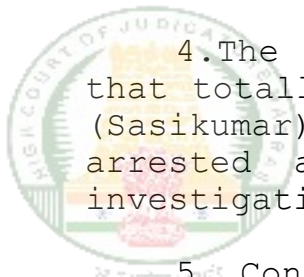
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner / A3 to A6, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 430 and 379 I.P.C., r/w Sec 3(ii) of TNPPDL Act, in Crime No.10 of 2018, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant, who is the Divisional Engineer, Public Works Department, Uthamapalayam, conducted an inspection on 09.01.2018 in the Mullai Periyar river at Surulipatti, it was found that some persons were said to have involved in the sand theft. Thereby, the defacto complainant lodged a complaint before the respondent police.

3.The learned counsel appearing for the petitioner submitted that after registering the F.I.R, the respondent police in order to fill up the lacuna, the fourth petitioner/A6 has been falsely implicated in the case. The petitioners herein are sought to be implicated after getting false statement from Accused Nos. 1 and 2 as if the petitioners herein are arrayed on the basis of their confession statement. He further submitted that the petitioners are innocent persons, they have not committed any offence as alleged by the prosecution. Hence he prays for anticipatory bail.



4. The learned Government Advocate (Criminal Side) submitted that totally there are five accused in this case. The petitioner/A6 (Sasikumar) is not related in this case. A1 and A2 were already arrested and remanded to Judicial custody. According to him, investigation is not completed.

5. Considering the submissions made on either side, the learned counsel for the petitioner made an endorsement that not pressing the anticipatory bail against the fourth petitioner/A6 herein. Hence, according to fourth petitioner/A6 is concerned, the petition is dismissed as not pressed.

6. For remaining accused, it is alleged that during the time of occurrence, they took samples from Mullai Periyar River at Surulipatti, accused persons have involved in the sand theft. According to prosecution, the river sand which was gathered by the petitioners are recovered. Considering the nature of offence committed by the petitioners, custodial interrogation is not necessary for completing the investigation. 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, Uthamapalayam, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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 and 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 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/-

12/01/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM

2 THE CHIEF JUDICIAL MAGISTRATE, THENI

3 THE INSPECTOR OF POLICE,  
CUMBUM SOUTH POLICE STATION,  
THENI DISTRICT.

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

+1. CC to M/S.P.MAHENDRAN Advocate SR.No.752

ORDER

IN

CRL OP(MD) No.651 of 2018

Date :12/01/2018

PK/VR/SAR-4/18.01.2018 : 3P/6C