



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

Friday, the Nineteenth day of January Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.842 of 2018

JOHN @ JOHN ALPOONSE,

... PETITIONER/ACCUSED No.2

Vs

STATE THROUGH
THE SUB INSPECTOR OF POLICE,
SIVAGIRI POLICE STATION,
IN CRIME NO.7 OF 2018,
TIRUNELVELI DISTRICT.

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.RAJAMOHAN Advocate

For Respondent : MR.A.RABINSON, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the alleged offence under Section 379 I.P.C., in Crime No.7 of 2018 , on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 11.01.2018, based on the secret information, the respondent police seized the tractor and trailer of the first accused with $\frac{3}{4}$ unit of sand. Hence, the respondent police registered a case against the accused persons.

3.The learned counsel appearing for the petitioner submitted that the respondent police has registered a case against the petitioner stating that the petitioner has illegally taken the river sand by using tractor and trailer. He further submitted that the petitioner has not committed any offence, this case has been registered only for the statistical purpose and the respondent police has seized the tractor and trailer from the petitioner's house. He further submitted that already A1 was granted anticipatory bail by this Court in Crl.O.P(MD).No.822 of 2018. Hence, he prays to grant anticipatory bail to the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The learned Government Advocate (Crl.side) submitted that



there are two vehicles involved in this case and only one vehicle has been seized and one more vehicle yet to be seized. He further submitted that the petitioner may be directed to produce another vehicle before the respondent police.

5. This Court cannot issue such a direction in this petition. It is open to the respondent police to seize the vehicle in the manner known to law. Considering the submissions made by the learned counsel on either side and considering the fact that already one of the accused in this case was granted anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, he 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 shall report before the respondent Police daily at 10.00 a.m. until further orders.

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

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

(iv) 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 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/-
19/01/2018

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



1 THE JUDICIAL MAGISTRATE,
SIVAGIRI, TIRUNELVELI DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT

3 THE SUB 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.R.RAJAMOHAN Advocate SR.No.943

ORDER
IN
CRL OP(MD) No.842 of 2018
Date :19/01/2018

SMA/CM-VR/SAR-4/23.01.2018:3P/6c