



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

Wednesday, the Fifteenth day of May Two Thousand Nineteen
PRESENT

The Hon'ble Mr Justice B.PUGALENDHI

WEB COPY

CRL OP (MD) No.6809 of 2019

1 LINGAM

2 KUMAR

... PETITIONER / ACCUSED NOS. 2 & 3
Vs

STATE REP. BY ITS,
THE INSPECTOR OF POLICE,
RAJATHANI POLICE STATION,
THENI DISTRICT
(CRIME NO.116/2019)

... RESPONDENT/ COMPLAINANT

For Petitioners : M/S.K.MATHAN, Advocate

For Respondent : Mr.A.Robinson, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners/accused Nos.2 and 3, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 of IPC and Section 21(IV) of Mines and Minerals Act in Crime No.116 of 2019 on the file of the respondent police, seek anticipatory bail.

2.Heard Mr.K.Mathan, learned Counsel for the petitioners and Mr.A.Robinson, learned Government Advocate (Crl Side) appearing for the State.

3.The case of the prosecution is that on 16.04.2019 at about 04.30 a.m., the respondent police along with his subordinates were on raid. They found the petitioners and other accused were illegal carrying the one unit of sand without any valid permission in a JCB bearing registration No.TN-60-P-9972 and a Mahindra Tractor bearing Registration No.TN-57-F-2387 along with the trailer. Hence, the complaint.

4.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they did not commit any offence as alleged by the prosecution and they have been falsely implicated in this case. According to him, there is no bad antecedent against them and to show their bonafide, they is also prepared to deposit some amount.



5.The learned Government Advocate (Crl Side) appearing for the respondent Police opposes the grant of bail that the petitioners are involved in illegal sand mining and were in possession of one unit of sand.

6.Taking into consideration of the facts and circumstances of the case and there is no bad antecedent against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions.

7.Accordingly, the petitioners are directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only), to the account of Patient Welfare Society, District Headquarters Hospital, Theni and preferably it can be utilized for the purpose of installation of UPS (inverter) in the Hospital wards depending upon the requirement within the district, on such deposit, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, for a like sum to the satisfaction of the learned Judicial Magistrate, Andipatti, Theni District, and on further conditions that:-

[a]the petitioners as well as the sureties shall submit a copy of their Aadhar card or any other identity cards issued by the Government, in proof of their address, along with the surety bonds.

[b]the petitioners shall report before the respondent police daily at 10.30 a.m, until further orders.

[c] the petitioners shall not tamper the evidence or witness either during investigation or trial.

[d] the petitioners shall co-operate for the investigation and the trial. The petitioners shall not abscond either during investigation or trial and in event of the petitioners absconds, the respondent police shall register a case as provided under Section 229-A IPC.

[e]in the event of breach of any of the aforesaid conditions, the learned Magistrate / trial Court is entitled to take appropriate action against the petitioners, as per the principles laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.

8.Merely, because the petitioners had deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

sd/-
15/05/2019

/ TRUE COPY /

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



1 THE JUDICIAL MAGISTRATE,
ANDIPATTI, THENI DISTRICT

2 -DO-THRO-THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

3 THE INSPECTOR OF POLICE
RAJATHANI POLICE STATION,
THENI DISTRICT

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

Copy To:

THE OFFICER IN CHARGE,
PATIENT WELFARE SOCIETY,
DISTRICT HEADQUARTERS HOSPITAL, THENI

ORDER
IN
CRL OP(MD) No.6809 of 2019
Date :15/05/2019

ES/JC/SAR 1/21.05.2019/3P/6C