



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

Wednesday, the Fifteenth day of May Two Thousand Nineteen

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PRESENT

The Hon'ble Mr Justice B.PUGALENDHI

CRL OP (MD) No.7007 of 2019

1 SHANMUGAVEL

2 KATTURAJA ... PETITIONERS / ACCUSED NOS. 1 AND 2

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
THALAVAIPURAM POLICE STATION,
CRIME NO.123/2019
VIRUDHUNAGAR DISTRICT ... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.RAGAVENTHRE, 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, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.123 of 2019 on the file of the respondent police, seek anticipatory bail.

2.Heard Mr.K.Prabhu, 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 the petitioners are said to have illegally transported one unit of river sand through their vehicle.

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 are 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 petitioner is involved in illegal sand mining and was in possession of one unit of sand. According to him, the first petitioner is also involved in five similar cases.

6. At this juncture, the learned counsel appearing for the petitioners sought leave of this Court to withdraw this Criminal Original Petition insofar as the first petitioner is concerned and he has also made an endorsement to that effect. Recording the said submission, this Criminal Original Petition is dismissed as withdrawn insofar as the first petitioner is concerned.

7. Considering the facts and circumstances of the case and there is no bad antecedent against the second petitioner, this Court is inclined to grant anticipatory bail to the second petitioner subject to the following conditions.

8. Accordingly, the second petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen thousand only) to the account of Patient Welfare Society, District Headquarters Hospital, Viruthunagar District and preferably it can be utilized for the purpose of installation of UPS (invertor) in the Hospital wards depending upon the requirements with in the District, on such deposit, the second petitioner is ordered to be released on bail in the event of arrest or on his 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, Rajapalayam and on further conditions that:-

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

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

[d] the second petitioner shall co-operate for the investigation and the trial. The second petitioner shall not abscond either during investigation or trial and in event of the second petitioner 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 second petitioner, 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 second petitioner had deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

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Sd/-
15/05/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE,
RAJAPALAYAM
- 2 -DO-THRO-THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT.
- 3 THE INSPECTOR OF POLICE
THALAVAIPURAM POLICE STATION,
VIRUDHUNAGAR 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,
VIRUTHUNAGAR DISTRICT

+1. CC to M/S.K.PRABHU Advocate SR.No.8427

ORDER
IN
CRL OP(MD) No.7007 of 2019
Date :15/05/2019

ES/JC/SAR 1/21.05.2019/3P/7C