



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

Wednesday, the Fifteenth day of May Two Thousand Nineteen

WEB COPY

PRESENT

The Hon'ble Mr Justice B.PUGALENDHI

CRL OP(MD) No.7131 of 2019

1 MUTHURAJ

2 NESARAJ

... PETITIONERS/ ACCUSED 1 & 2

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
THISAYANVILAI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.176/2019) ... RESPONDENT / COMPLAINANT

For Petitioners : M/S.K.SUDALAIYANDI Advocate

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

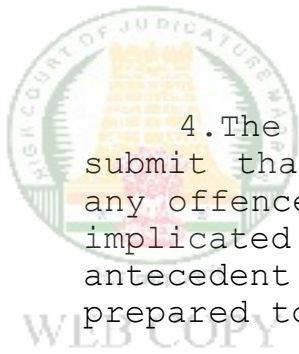
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners/accused nos.1 and 2, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 of IPC in Crime No.176 of 2019 on the file of the respondent police, seek anticipatory bail.

2.Heard Mr.Sundalaiyandi, 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 defacto complainant who is the Sub Inspector of Police conducted a police patrol along with other police parties on 10.05.2019 at about 10.00 a.m., in and around Urumangalam area. At that time, the petitioners along with other five accused persons have illegally transported one unit of the river sand from Nambiyaru by using a 608 Tipper Lorry bearing Registration No.KL-03-A-4230. 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 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 petitioners are involved in illegal sand mining and were in possession of one unit of sand.

6.Considering 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 first petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) and as the second petitioner is having two previous cases, the second petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), to the account of Patient Welfare Society, District Headquarters Hospital, Tirunelveli 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, Nanguneri, Tirunelveli 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.

WEB COPY

sd/-
15/05/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE,
NANGUNERI, TIRUNELVELI DISTRICT
- 2 -DO-THRO-THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
THISAYANVILAI POLICE STATION,
TIRUNELVELI 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, TIRUNELVELI

+1. CC to M/S.K.SUDALAIYANDI Advocate SR.No.8442

ORDER
IN
CRL OP(MD) No.7131 of 2019
Date :15/05/2019

ES/PN/SAR 2/20.05.2019/3P/7C