



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

CRL OP(MD) No.7146 of 2019

1 BABU

2 RAJA

3 VADIVEL

4 KUMAR

5 MARIMUTHU

6 TAMIL

7 MANOHARAN

8 MURUGAN

9 MANIKANDAN ... PETITIONERS/ ACCUSED Nos. 1 TO 9

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
THIRUPPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT
(CRIME NO. 34 OF 2019) ... RESPONDENT / COMPLAINANT

For Petitioners : M/S.S.KRISHNAN 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, who are apprehending arrest at the hands of the respondent Police for the alleged offences punishable under Sections 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.34 of 2019, on the file of the respondent police, seek anticipatory bail.



2. The case of the prosecution is that on 22.02.2019, the *de facto* complainant was conducting raid and found the petitioners driving the bullock carts carrying river sand comprising $\frac{1}{4}$ unit and the respondent seized the vehicle. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the petitioners are innocent persons and have not committed any offence as alleged by the prosecution. The learned counsel further submitted that there is no bad antecedent against the petitioners and to show their *bona fides*, the petitioners are also prepared to deposit some amount.

4. The learned Government Advocate (Criminal Side) vehemently opposed for the grant of anticipatory bail as the petitioners are involved in illegal sand mining and they were found in possession of $\frac{1}{4}$ unit of sand.

5. Taking into consideration the nature of allegations made against the petitioners, this Court is of the view that this is a fit case to grant anticipatory bail to the petitioners. 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, Manamadurai, Sivagangai District, on condition that each of the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood related surety, 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 conditions that:

- (i) Each of the petitioners are directed to deposit a sum of Rs.3,000/- (Rupees three thousand only) to the account of Patient Welfare Society, District Headquarters Hospital, Sivagangai District 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.
- (ii) 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;
- (iii) the petitioners shall report before the respondent police as and when required for interrogation;
- (iv) the petitioners shall not tamper the evidence or witness either during investigation or trial;



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(v) 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 abscond, the respondent police shall register a case as provided under Section 229-A I.P.C.; and

(vi) 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]**.

6. Merely, because the petitioners have 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

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

TO

- 1 THE JUDICIAL MAGISTRATE,
MANAMADURAI,
SIVAGANGAI DISTRICT
- 2 -DO-THRO-THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
THIRUPPATCHETHI POLICE STATION,
SIVAGANGAI 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,
SIVAGANGAI DISTRICT

+1. CC to M/S.S. KRISHNAN Advocate SR.No.8441

ORDER
IN
CRL OP (MD) No.7146 of 2019
Date :15/05/2019

ES/PN/SAR 3/21.05.2019/6P/7C