



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.7208 of 2019

BALAJI @ BALAKRISHNAN

... PETITIONER / 1st ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALWARTHIRUNAGIRI POLICE STATION,
THOOTHUKUDI DISTRICT.
(CRIME NO.85 OF 2019)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.S.SELVAKUMAR 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 petitioner/accused, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 of IPC in Crime No.85 of 2019 on the file of the respondent police, seeks anticipatory bail.

2.Heard Mr.S.Selvakumar, learned Counsel for the petitioner and Mr.A.Robinson, learned Government Advocate (Crl Side) appearing for the State.

3.The case of the prosecution is that based on secret information when the defacto complainant conducted a raid at Pannaivilai NBR Kaimai, they found the petitioner and other accused were illegally transporting one unit of sand by using a 407 Tipper Van bearing Registration No.TN-69-AW-5424. On seeing the respondent police, the petitioner fled away from the scene of occurrence. Hence, the complaint.

4.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. According to him, there is no bad antecedent against him and to show his bonafide, he is also prepared to deposit some amount. Hence, he prays to grant anticipatory bail to this petitioner.



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.

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

7. Accordingly, the 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, Thoothukudi 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, the 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, Srivaikundam, and on further conditions that:-

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

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

[d] the petitioner shall co-operate for the investigation and the trial. The petitioner shall not abscond either during investigation or trial and in event of the 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 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 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.

sd/-
15/05/2019

/ TRUE COPY /

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



TO

1 THE JUDICIAL MAGISTRATE,
SRIVAIAKUNDAM

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

3 THE INSPECTOR OF POLICE
ALWARTHIRUNAGIRI POLICE STATION,
THOOTHUKUDI DISTRICT.

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

Copy To:

THE OFFICER INCHARGE,
PATIENT WELFARE SOCIETY,
DISTRICT HEADQUARTERS HOSPITAL,
THOOTHUKUDI

+1. CC to M/S.S. SELVAKUMAR Advocate SR.No.8566

ORDER

IN

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Date :15/05/2019

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