



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

Tuesday, the Fourth day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.7418 of 2019

1 THIRUMURUGAN
2 ILAYARAJA
3 C.THANGAMARIAPPAN
4 MURUGAN

... PETITIONERS / ACCUSED NOS. 1 & 4

Vs

STATE REP. BY
THE SUB-INSPECTOR OF POLICE,
IRUKKANGUDI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.92 OF 2019)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.M.SOLAISAMY Advocate

For Respondent : Mrs.M.ANANTHA DEVI, Government Advocate (Crl.Side)

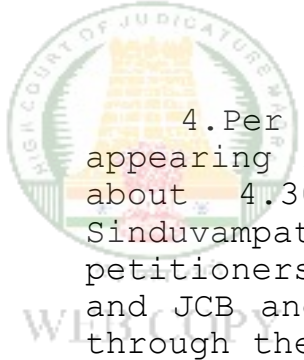
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 of IPC and r/w Section 21 (1) of Mines and Minerals (Development and Regulations) Act in Crime No. 92 of 2019, seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that according to the prosecution, the first petitioner is the owner of the lorry and the second petitioner is the driver of the said lorry and the third petitioner is the owner cum driver of the JCB and the fourth petitioner came in the motor cycle for helping them. He further submitted that as per the FIR, the petitioners tried to take river sand illegally and on seeing the police party, the petitioners escaped through the said lorry. He further submitted that in the FIR, registration number of the said lorry has not been mentioned and therefore he prayed for grant of anticipatory bail to the petitioners.



4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent has submitted that on 20.05.2019, at about 4.30 a.m., when the police party was on patrol in Sinduvampatti village, they found the lorry with river sand and the petitioners herein tried to mine river sand illegally through lorry and JCB and on seeing the police party all the petitioners escaped through the said lorry, by parking JCB and motor cycle in the spot. She further submitted that already the first petitioner is having two cases and the second petitioner is having one case in similar nature. She further submitted that the investigation is still in progress and therefore she prayed to dismiss the petition.

5. Taking into consideration of the aforesaid submission and considering the fact that the petitioners 3 & 4 have no previous case and the third petitioner is the owner cum driver of JCB and the fourth petitioner came in the motor cycle for helping them, this Court is inclined to grant anticipatory bail to the petitioners 3 and 4 with certain conditions.

6. Insofar as the first petitioner is concerned already two cases pending against him and the second petitioner is concerned already one case is pending against him. Hence, this Court is not inclined to grant anticipatory bail to them.

7. Accordingly, the petitioners 3 and 4 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 No.II, Sattur on condition that the petitioners 3 & 4 shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties 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) If the petitioners 3 & 4 fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

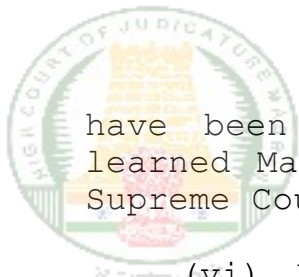
(ii) the petitioners 3 & 4 shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioners 3 & 4 shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioners 3 & 4 shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Judicial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions

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have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

8. Insofar as the first and second petitioners are concerned this petition is dismissed.

sd/-
04/06/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
SATTUR.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.
 - 3 THE SUB-INSPECTOR OF POLICE,
IRUKKANGUDI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.M.SOLAISAMY, Advocate (SR-9210[I] dated 07/06/2019)

ORDER
IN
CRL OP(MD) No.7418 of 2019
Date :04/06/2019

JM/VR/SAR 3/13.06.2019/3P/6C