

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

(Criminal Jurisdiction)

Date : 14/06/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.8227 of 2019

1. M.Ayyappan,
2. K.Suman,

... Petitioners/Accused Nos.1 & 2

Vs

State rep.by
The Inspector of Police,
Natchiyarkovil Police Station,
Kumbakonam Taluk,
Thanjavur District.
(Crime No.117/2019).

... Respondent/Complainant

For Petitioner : Mr.T.R.Subramanian

For Respondent : Mr,V.Neela Kandan,
Additional Public Prosecutor,

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

PRAYER :-

For Anticipatory bail in Cr.No.117 of 2019 on the file of the respondent police.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 IPC r/w 21(1) of Mines and Minerals (Regulations and Development) Act, 1957 in Crime No.117 of 2019, seek anticipatory bail.

2.The learned counsel appearing for the petitioners has submitted that he is not pressing this petition insofar as the second petitioner is concerned and to that effect, he has also made an endorsement.

3.The learned counsel appearing for the petitioners has further submitted that insofar as A-1 is concerned, no previous case is pending against him and even as per the F.I.R, the petitioners were attempted to take river sand and therefore, he prayed to grant of anticipatory bail to the first petitioner.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that four previous cases are pending against the second petitioner and insofar as the first petitioner is concerned, he is the driver, against whom, no previous case is pending. He further submitted that JCB vehicle was seized from the scene of occurrence and therefore, he strongly opposed this petition.

5.Taking into consideration of the fact that no previous case is pending as against the first petitioner and also the allegation against the first petitioner that being the driver of the JCB, he attempted to take river sand and also the fact that no previous case is pending against the first petitioner, this Court is inclined to grant anticipatory bail to the first petitioner by imposing certain conditions.

6. Accordingly, the first petitioner is ordered to be released on bail in the event of arrest or on his 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, Kumbakonam on condition that the first petitioner 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 condition that:

[a] If the first petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the first petitioner shall report before the respondent Police daily at 10.00 a.m for a period of three weeks and thereafter, as and when required for the interrogation.

[c] the first petitioner shall not abscond either during investigation or trail.

[d] the first petitioner shall not tamper with evidence or witness either during investigation or trail.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the first petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[f] If the first petitioner/accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. Accordingly, this petition is allowed insofar as the first petitioner is concerned. Insofar as the second petitioner is concerned, this petition is dismissed as not pressed.

sd/-
14/06/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
KUMBAKONAM.
- 2 DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
- 3 THE INSPECTOR OF POLICE,
NATCHIYARKOVIL POLICE STATION,
KUMBAKONAM TALUK, THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to MR.T.R.SUBRAMANIAN, Advocate (SR-9750[I] dated
14/06/2019)

WEB COPY

ORDER
IN

CRL OP(MD) No.8227 of 2019
Date :14/06/2019

VS

MS/VR/SAR-IV (24.06.2019) 3P 6C