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CRL OP(MD) . No.10551 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) Nos.10551 and 10567 of 2019

1.Palani
2.Murugan

... Petitioners/Accused No.5 & 6
IN CRL OP(MD)No.10551 of 20199

K.Ramesh Babu @ K.S.R.Ramesh

... Petitioners/Accused No.1
IN CRL OP(MD)No.10567 of 20199

Vs

State rep.by
The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
Crime No.301 of 2019

... Respondent/Complainant
IN BOTH PETITIONS

For Petitioners : Mr.V.Kathirvelu Senior Counsel
for Mr.G.Mathavan, Advocate
in Both Petitions

For Respondent : Mr.V.Neelakandan, Additional Public Prosecutor
in Both Petitions

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

PRAYER :-

For Anticipatory bail in Cr.No.301/2019 on the file of the
respondent police.

COMMON ORDER:

The petitioners, who apprehend arrest at the hands of the
respondent police for the offences punishable under Section 379 of
IPC and Sections 21(1), 21(2) of Mines and Minerals Development and
Regulation Act, 1957, in Crime No.301 of 2019, seek anticipatory
bail.

2. Heard both sides.

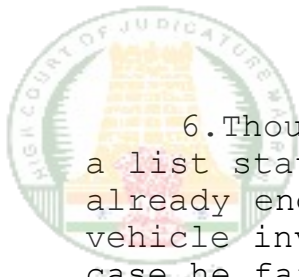
<https://hcservices.ecourts.gov.in/hcservices/>



3.The learned Senior Counsel appearing for the petitioners has submitted that on 19.07.2019 at about 3.30 p.m, the respondent police went to the first petitioner's house and took the empty lorry bearing Registration No.TN 57 AE 8743 and also arrested the other accused persons, who were sleeping in the said vehicle. He further submitted that when the Police Team took the said lorry, a photo has been taken and he also produced the said photograph. He further submitted that the said lorry is having GPRS facilities which would show the location of the said lorry at the relevant time. He further submitted that the petitioners have not committed any offence and only for construction purpose the petitioner in Crl.O.P.(MD)No.10567 of 2019 (A1) has purchased some quantity of sand from the persons, who are having valid permit and he also produced xerox copies of the said receipts.

4.He further submitted that though the learned Additional Public Prosecutor has furnished a list stating that A1 is having some previous cases, one case was registered under Section 307 IPC and the said case was ended in acquittal. He further submitted that in one case, i.e. in Crime No.633 of 2017 on the file of the respondent police, A1 has been shown as owner of the lorry, but, actually the said lorry belongs to A1's father. He further submitted that one case in Crime No.87 of 2019 was registered on the file of the respondent police based on the confession said to have been given by the driver. Further, in the said case, it was alleged that only an attempt was made and actually in the occurrence place A1 was not present. In so far as the other cases are concerned, none of the petitioners herein are accused. He also produced xerox copies of First Information Reports of the aforesaid Crime Numbers and the judgment passed in Crime No.553 of 2014 and hence, he prayed to grant anticipatory bail to the petitioners.

5.Per contra, the learned Additional Public Prosecutor, has submitted that on getting secret information, as per the instructions of the Superintendent of Police, two Teams have been formed; one Team went to the house of the first petitioner and another team went for surveillance on the roads. He further submitted that when one team went to the house of the first petitioner a photo has been taken. He further submitted that A1 has heaped huge quantity of sand in his place and the same has been inspected by the PWD authorities and also issued a Certificate as the said sand is having the quantity of 54 units. However, he fairly conceded that only two cases are pending against A1 and in one case I.e. Crime No.633 of 2017, the vehicle involved belongs to A1's father and another case in Crime No.87 of 2019, based on the confession given by the driver, A1 has been implicated and in that case, only an attempt has been made. He further submitted that since huge quantity of sand has been illegally mined, he strongly opposed the petitions.



6. Though the learned Additional Public Prosecutor has submitted a list stating that eight cases are pending against A1, one case was already ended in acquittal, in one case he fairly conceded that the vehicle involved in the said case belongs to A1's father; in another case he fairly conceded that based on the confession given by driver A1 was added as accused and in that case, only an attempt has been made to transport sand. Further, he has fairly conceded that eighth case is the present case and in respect of other cases, none of the petitioners are accused. Further, though the learned Additional Public Prosecutor has submitted that two teams have been constituted and one team has been sent to the A1's house, for that he fairly conceded that no necessary entries has been made in the General Diary (GD).

7. Taking into consideration of the aforesaid facts and also the submissions made by the learned Senior Counsel for the petitioners that the photo would show that the said lorry was taken only from A1's house, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners 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, Aranthangi, Pudukkottai District, on condition that the petitioners 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:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners 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 shall not tamper with evidence or witness either during investigation or trial.

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

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

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

TO

- 1.THE JUDICIAL MAGISTRATE,
ARANTHANGI, PUDUKKOTTAI DISTRICT.
 - 2.THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
 - 3.THE INSPECTOR OF POLICE,
ARANTHANGI POLICE STATION,
PUDUKKOTTAI DISTRICT.
 - 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2. CC to Mr.G.MATHAVAN Advocate SR.Nos.12485,12486

ORDER
IN
CRL OP(MD) Nos.10551 and
10567 of 2019
Date :29/07/2019

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TK/VR/SAR.2/07.08.2019/4P/7C