



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/07/2019

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PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.10554 of 2019

Arivazhagan

... Petitioner/Accused No.2

Vs

State Rep.by

The Inspector of Police,
Thuvarankurichi Police Station,

Trichy District.

Crime No.120 of 2019.

... Respondent/Complainant

For Petitioner : M/s.K.Sivabalan,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

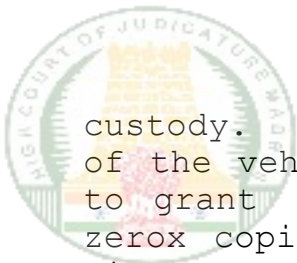
PRAYER :-

For Anticipatory Bail in Crime No. 120 of 2019 on the file of the Respondent Police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.120 of 2019, seeks anticipatory bail.

2.The learned counsel appearing for the petitioner has submitted that the petitioner is the owner of the vehicle bearing Regn.No.TN-54-C-7042. He further submitted that already, permit was granted for taking 3 units of M-Sand. At the time of Inspection made by the Village Administrative Officer/defacto complainant, the driver (A-1) has produced the said permit. Though the driver of the said vehicle (A-1) has produced the said permit, the Village Administrative Officer has lodged a complaint before the Police, as if the driver has not produced any permit. He further submitted that already, the driver was arrested and remanded to judicial



custody. He further submitted that the petitioner being the owner of the vehicle, has been arrayed as accused. Therefore, he prayed to grant anticipatory bail to the petitioner. He also produced zerox copies of the permit said to have been issued by the Deputy Director of Geology and Mining Department of Pudukkottai.

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3.per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that in the aforesaid vehicle, 4 units of sand has been transported and hence, a complaint has been lodged and F.I.R also registered. He further submitted that even assuming that the petitioner got valid permit for transporting the sand and the said permit was granted only for 3 units, the driver has transported 4 units and for 1 unit, there is no permit. Hence, he strongly opposed this petition.

4.Taking into consideration of the fact that the petitioner got permit for taking 3 units of M-Sand, but his driver has transported 4 units of sand, it appears that they have transported 1 unit of sand without any permit and also the submission made by the learned Additional Public Prosecutor that no previous case is pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions.

5. Accordingly, the 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, Manapparai, Trichy District, on condition that the 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:

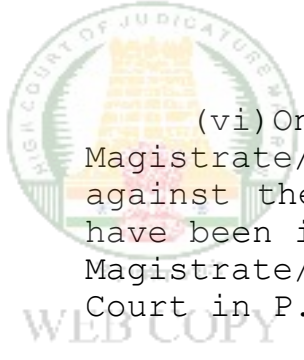
(i)the petitioner shall deposit a sum of Rs.15,000/- (Rupees fifteen thousand only) to the credit of Cr.No.120 of 2019 before the learned Judicial Magistrate, Manapparai, Trichy District, without prejudice to his contentions before the trial court.

(ii) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(iii)the petitioner shall report before the respondent Police, daily at 10.30 a.m for a period of three weeks and thereafter, as and when required for the interrogation.

(iv)the petitioner shall not tamper with evidence or witness either during investigation or trial.

(v)the petitioner shall not abscond either during investigation or trial.



(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the 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].

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

sd/-
26/07/2019

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

TO

1. THE JUDICIAL MAGISTRATE, MANAPPARAI,
TRICHY DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
THUVARANKURICHI POLICE STATION, TRICHY DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.K.SIVABALAN Advocate SR.No.12443

ORDER
IN
CRL OP(MD) No.10554 of 2019
Date :26/07/2019

MS/VR/SAR-4/01.08.2019/3P.6C