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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/08/2019

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.10882 of 2019

A.Syed Ali, ... Petitioner/Accused 3

Vs

The State of Tamilnadu
Rep by The Inspector Of Police,
Palugal Police Station,
Kanyakumari District.
Cr. No. 332 of 2012.
... Respondent/Complainant

For Petitioner : M/s.S.Xavier Rajini,
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. 332 of 2012 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 294(b), 353, 307, 506(ii) and 379 of IPC r/w Section 4(i), 4(ii), 4(1-a) and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.332 of 2012, seeks anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that even as per the FIR, the

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petitioner and other accused person have transported four units of sand illegally. The petitioner is not having any bad antecedent and hence, he prayed for grant of anticipatory bail to the petitioner.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that the petitioner and other accused person have transported four units of sand by using lorry without any valid permission. However, he fairly conceded that no similar type of case is pending against the petitioner.

5.Taking into consideration of the fact that no previous case is pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. 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 No.1, Kuzhithurai, Kanyakumari District, on condition that the petitioner shall execute 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 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.20,000/- (Rupees Twenty Thousand only) to the credit of Crime No.332 of 2012 before the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District, without prejudice his defence 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 before the respondent police for 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].

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

sd/-
01/08/2019

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

TO

1 THE JUDICIAL MAGISTRATE NO.1
KUZHITHURAI, KANYAKUMARI DISTRICT

2 DO THROUGH:THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT NAGERCOIL

3 THE INSPECTOR OF POLICE
PALUGAL POLICE STATION, KANYAKUMARI DISTRICT

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

+1. CC to M/S.S.XAVIER RAJINI Advocate SR.No.12724

ORDER
IN
CRL OP(MD) No.10882 of 2019
Date :01/08/2019

KM/JC/SAR-III (06.08.2019) 3P 6C

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