

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

Date : 22/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11704 of 2019

1. Mohan Kumar,
2. Ristopher Bibin, ... Petitioners/Accused rank not known

Vs

The State of Tamil Nadu
Rep.by its Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
Crime No. 231 of 2019. ... Respondent/Complainant

For Petitioners: M/s. E.K. John Victor Ellis,
Advocate.

For Respondent : Mrs.M. Anantha Devi
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 231 of 2019 of 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 Section 379 of
IPC, in Crime No.231 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 as per the FIR, the petitioners
have illegally transported one unit of red soil by using Vehicle. He
further submitted that the petitioners are not having any bad

antecedents and hence, he prayed to grant anticipatory bail to the petitioners.

4.Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent has submitted that the petitioners have transported one unit of red soil without any valid permission. However, she fairly conceded that no similar type of case is pending against the petitioners.

5.Taking into consideration of the fact that the quantity of the sand involves in this case and also the fact that no previous case is pending against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. 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 Court, No.II, Padmanabapuram, 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]before executing bail bond, each petitioners shall deposit a sum of Rs.2,000/- (Rupees Two Thousand only) to the credit of Crime No.231 of 2019 before the learned Judicial Magistrate Court, No.II, Padmanabapuram, without prejudice to their defence before the trial Court;

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

(iii)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.

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

(v)the petitioners 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 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].

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

sd/-
22/08/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE COURT NO.II, PADMANABHAPURAM.

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

3 THE INSPECTOR OF POLICE
THIRUVATTAR POLICE STATION, KANYAKUMARI DISTRICT

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

+1. CC to M/S. E.K. JOHN VICTOR ELLIS Advocate SR.No.13933

ORDER
IN

CRL OP(MD) No.11704 of 2019
Date :22/08/2019

AM/PN/SAR-1/29.08.2019/3P-6C

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