

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.11861 of 2019

1.Rajesh,
2.Suresh

... Petitioners/Accused Nos.3 and 4

Vs

The State rep.by
The Sub Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
Crime No. 87 of 2019.

... Respondent/Complainant

For Petitioner : M/s. K.P.Narayanakumar,
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. 87 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 of
IPC and Section 21(1) of Mines and Minerals (Development
Regulations) Act, 1957 , in Crime No.87 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

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

this case. He further submitted that as per the FIR, that the petitioners herein and other accused persons have illegally transported 2 units of river sand. He further submitted that the petitioners are not having any bad antecedents and hence, he prayed for grant of anticipatory bail to the petitioners.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that totally there are four accused in this case, the petitioners herein are arrayed as A3 and A4. He further submitted that the petitioners along with other accused persons have transported 2 units of river sand without any valid permission. However, he fairly conceded that no previous case is pending against the petitioners herein.

5.Taking into consideration of 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, Eraniel, 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 the bail bond each of the petitioner shall deposit a sum of Rs.7500/- (Rupees Seven Thousand and Five Hundred only) (Totally Rs.15,000/- (Rs.7500 X 2) (Rupees Fifteen Thousand only) to the credit of Crime No.87 of 2019 before the learned Judicial Magistrate, Eraniel, without prejudice to his 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.

<https://hcservices.courts.gov.np/hcservices> each 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/-
30/08/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE, ERANIEL.
- 2 DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE,
VELLICHANTHAI POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-14562[I] dated 03/09/2019)

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ORDER
IN
CRL OP(MD) No.11861 of 2019
Date :30/08/2019

LS
AE/JC/SAR-II (05.09.2019) 3P 6C