

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl. O.P. No. 7719 of 2020

E. Madhesan @ Madesh,
S/o. Ellappan,
Thimjepalli Village & Post,
Denkanokottai Taluk,
Krishnagiri District.

.. Petitioner/ Accused No.2

Vs.

The State rep. by its
The Inspector of Police,
Royakottai Police Station,
Krishnagiri District.
[Crime No. 365 of 2020]

.. Respondent/ Respondent

Prayer: Criminal Original Petition filed for anticipatory bail under Section 438 of Criminal Procedure Code.

For Petitioner : Mr. E. Kannadasan

For Respondent : Mr. M. Jothikumar
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for alleged offence punishable under Section 379 of I.P.C., r/w. Section 2(i) (iv) Mines and Minerals Act, in Crime No. 365 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that on 01.05.2020, when the de-facto complainant and his Police party were on patrol duty, they found that the petitioner and other accused were loading sand from Government Poramboke stream in their Tractor with Trailer, bearing Registration No. TN-23-CZ-9769. On seeing the Police, they left the vehicle with sand and ran away from the place of occurrence. On search, it was found that the petitioner and other accused have committed theft of sand in the vehicle, with an intention to sell the same for profit. The vehicle with one unit of sand was seized by the respondent Police. On complaint, a case has been registered under Sections 379 of I.P.C., r/w Section 2(i)(iv) of the Mines and Minerals Act.

3. Learned counsel appearing for the petitioner submitted that the petitioner is no way connected with the alleged offence, he is innocent and a false case has been foisted against him and prayed for granting anticipatory bail.

4. Learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioner and other accused transported sand illegally in the Tractor-Trailer without permission or license and FIR has been registered against them. The investigation is pending and hence, opposed for granting anticipatory bail to the petitioner.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent Police and perused the materials available on record.

6. Considering the facts, nature of offence and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, the petitioner is

ordered to be released on bail in the event of his arrest or on his appearance within 15 days from the date of receipt of a copy of this order before the Court of Judicial Magistrate, Denkanikottai, 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 the Police officer who intends to arrest or to the satisfaction of the Judicial Magistrate, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(i) the petitioner and the sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.

(ii) the petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) by Demand Draft in favour of the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund (CMPRF), Finance Department, Government of Tamil Nadu, Secretariat, Chennai 600 009 or by Electronic Clearing System (ECS) to the Savings Bank Account No. 11720 10000 00070 of CMPRF to the Indian Overseas Bank, Secretariat Branch, Chennai 600 009 bearing IFSC Code IOBA0001172 and CMPRF PAN – AAAGC0038F, towards the fund collected for COVID-19, within a period of

one week from the date of receipt of a copy of this order.

(iii) the petitioner shall report before the respondent Police once in a week on every Monday at 10.30 a.m, until further orders.

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

(v) On breach of any of the aforesaid conditions, the concerned Trial Court is entitled to take appropriate action against the petitioner in accordance with law, as laid down in the decision of the Hon'ble Supreme Court, reported in **2005 AIR SCW 5560 (P.K. Shaji vs. State of Kerala)** and

(vi) If the petitioner thereafter absconds, a fresh First Information Report shall be registered, under Section 229A of I.P.C.

7. Accordingly, the Criminal Original Petition is allowed.

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Index : Yes / No

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V.M.VELUMANI, J.,

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To

1.The Inspector of Police,
Royakottai Police Station,
Krishnagiri District.

2.The Public Prosecutor,
High Court, Madras.

Crl. O.P. No. 7719 of 2020



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