



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/05/2020

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PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) . No.4708 of 2020

1. Ganapathi,
2. Thulasi,

... Petitioners/Accused Nos.1 & 2

Vs

The State represented by
The Inspector of Police,
Valanadu Police Station,
Trichy District.
(Crime No.35 of 2020).

... Respondent/Complainant

For Petitioners : M/s.M.Pitchai Muthu,
Advocate.

For Respondent : Mr.S.Chandrasekar,
Additional Public Prosecutor

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

PRAYER :-

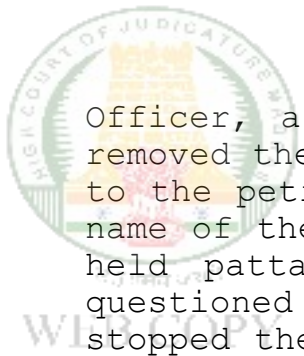
For Anticipatory Bail in Crime No. 35 of 2020 on the file of
the Respondent Police.

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 r/w Section 21(1) of Mines and Minerals (Development and
Regulation) Act, 1957, seek anticipatory bail.

2.Heard both sides.

3.The learned counsel for the petitioners would submit that the
petitioners in their patta land, dug a pit to make a shrimp farm.
However, based on the complaint given by the Village Administrative



Officer, a case has been registered against them as if they have removed the mineral without permission of the land owner. According to the petitioners, the land in S.No.198/5C is exclusively in their name of the petitioners and land in S.No.198/5A and 5B they jointly held patta with the other owners. When the revenue officials questioned them digging pit for operation of shrimp farm they stopped the work and also refilled the pit and restore the original condition.

4.The learned Additional Public Prosecutor appearing for the State would submit that regarding the ownership of the land, the revenue officials have been enquired and the statements have been recorded. Further information is sought from them regarding ownership of the land. Hence, he opposed to grant of anticipatory bail to the petitioners.

5.Considering the nature of the offence and the statement made by the learned counsel for the petitioners, this Court finds that the petitioners after realizing that they cannot remove the sand without permission they have stopped and left the sand in the field itself. Therefore, the arrest and custodial interrogation is not required. Hence, this Court is inclined to grant anticipatory bail on certain conditions.

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest by respondent police on executing a own bond for a sum of Rs.25,000/- and further each of the petitioners shall produce two sureties for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) before the learned Judicial Magistrate, Manapparai, Trichy District on or before 12.06.2020 and on further condition that:

(a)the petitioners and sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(c)the petitioners shall not abscond either during investigation or trial;

(d)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]***; and;



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

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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,
VALANADU POLICE STATION,
TRICHY DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.4708 of 2020
Date :13/05/2020

SJI
AE/PN/SAR-II (15.05.2020) 3P 5C