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

Reserved on : 01/07/2020
Pronounced on : 03/07/2020

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP (MD)No.5690 of 2020

VAIRAMUTHU

... PETITIONER/ACCUSED
(RANK NOT KNOWN)

VS

STATE REP. BY
THE INSPECTOR OF POLICE,
VACHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT
CRIME NO.143/2019.

... RESPONDENT/COMPLAINANT

For Petitioner : Mr.S.Poornachandran
Advocate

For Respondent : S.Chandrasekar
Additional Public Prosecutor

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

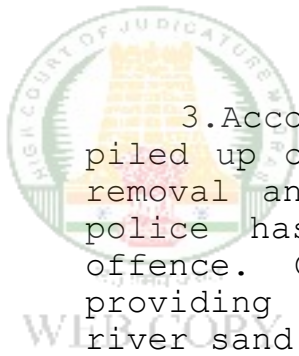
PRAYER :-

For Anticipatory Bail in Crime No.143 of 2019 on the file of the respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2.This is a second petition for anticipatory bail filed by the petitioner/accused in Crime No.143 of 2019, on the file of the respondent police. Based on the Village Administrative Officer's complaint dated 10.05.2019, the above said case was registered by the respondent police for the offence under Section 379 of I.P.C. and Section 21(1) of the Mines and Minerals (Development and



3. According to the prosecution, 21 units of river sand was piled up on the bank of Arjuna River by unknown persons for later removal and to be sold to the public illegally. The respondent police has arrested one Murugesan on 18.02.2020 for the said offence. On his confession, the present petitioner is suspected for providing Tipper Lorry and Tractor for the illegal excavation of river sand.

4. Earlier, this Court dismissed the anticipatory bail petition filed by the petitioner on the ground that the respondent police is investigating the matter based on the confession statement of Murugesan and therefore, the petitioner herein is not entitled for anticipatory bail. After three months from the date of dismissal of earlier anticipatory bail petition, the petitioner is again before this Court seeking advance bail.

5. The learned counsel appearing for the petitioner would submit that the said Murugesan was inimical to this petitioner. Though he is a relative to the petitioner, to wreck vengeance, he has falsely implicated the petitioner in the said crime.

6. The learned Additional Public Prosecutor appearing for the respondent furnished C.D. file and pointed out the portion of Murugesan's confession statement, which has implicated the petitioner as an accused. The confession statement of Murugesan reveals that he along with other accused has excavated the river sand and piled it at various places. This petitioner, who is the sister's son of the said Murugesan alleged to have provided his Tipper Lorry and Tractor for excavation. In the confession statement, there is also a reference about difference of opinion between his sister and her husband. In any case, the statement of the co-accused is a weak piece of evidence. Though the case was registered as early as 10.05.2019, the statement of the co-accused was recorded after nearly ten months, i.e., on 18.02.2020.

7. Considering the abovesaid facts, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Virudhunagar, 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:

(a) the petitioner and the 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



(b)the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) before the concerned District Mineral and Foundation Trust **on or before 15.07.2020**, without prejudice and subject to outcome of the trial;

(c)the petitioner shall report before the respondent police as and when required for interrogation;

(d)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioner shall not abscond either during investigation or trial;

(f)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]***; and

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

sd/-

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

Note : (i) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
VIRUDHUNAGAR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE
VACHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



COPY TO:
THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
VIRUDHUNAGAR DISTRICT.

WEB COPY

ORDER
IN
CRL OP(MD) No.5690 of 2020
Date :03/07/2020

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JM/PN/SAR 2/06.07.2020/4P/6C