



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

Date : 04/08/2020

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PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.8118 of 2020

1. K.KALIRAJ
2. KUDALINGAM

... PETITIONERS/ACCUSED NO.1 & 2

VS

STATE REP.BY
THE INSPECTOR OF POLICE,
THALAIVAIPURAM POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO. 225 OF 2020..

... RESPONDENT/COMPLAINANT

For Petitioner : M/s.T.Indrachithu,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.225 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused 1 and 2 apprehending arrest at the hands of the respondent police for the offences punishable under Sections 379 of I.P.C. r/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.225 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners have illegally transported one unit of river sand.

3.The learned counsel appearing for the petitioners submitted that the first petitioner is the owner and the second petitioner is the driver of the vehicle. He would further submit that the



petitioners have not committed any offence as alleged by the prosecution and the petitioners are not having any bad antecedent. However, on instructions, he would further submit that the petitioners will voluntarily make a non-refundable payment of Rs.15,000/- (Rupees Fifteen Thousand Only) to the credit of Madras High Court Madurai Bench, Advocate Clerk's Welfare Association, Madurai-625 023 (Indian Bank Saving Account No.496039124, IFSC Code: IDIB000H040), without prejudice to their rights in the criminal case.

4.The learned Government Advocate (Crl. side) appearing for the State submitted that the total quantity of sand involved is one unit and the same was recovered by the respondent police.

5.Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Rajapalayam, Virudhunagar District, on condition that the petitioners shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty 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:

(a)the petitioners are directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of Madras High Court Madurai Bench, Advocate Clerk's Welfare Association, Madurai-625 023 (Indian Bank Saving Account No.496039124, IFSC Code: IDIB000H040), within a period of two weeks without prejudice to their rights and contentions before the trial Court;

(b)the petitioners 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 identity;

(c)the petitioners shall report before the respondent police as and when required for interrogation.

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

(e)the petitioners 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 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;



(g) If the petitioners/accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
04/08/2020

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/ /2020

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

Note : 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,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
VIRUTHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE
THALAIVAIPURAM POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:
THE OFFICER INCHARGE,
ADVOCATE CLERK'S WELFARE ASSOCIATION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI-625 023.

ORDER
IN
CRL OP(MD) No.8118 of 2020
Date : 04/08/2020

SJI
JM/AKM/SAR 3/07.08.2020/3P/6C