



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.11917 of 2020

Kalipandi

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
Cheranmahadevi Police Station,
Tiruneveli District.
In Crime No.498 of 2020

... Respondent/Complainant

For Petitioner : M/s.D.S.Haroon Rasheed,
Advocate.

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

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

PRAYER :-

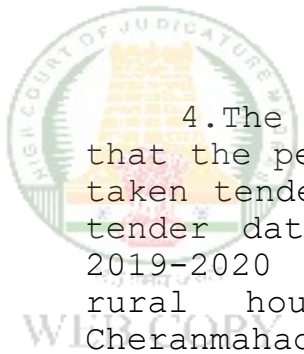
For Anticipatory Bail in Crime No.498 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as sole accused apprehending arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC, in Crime No.498 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 13.09.2020, the respondent police found that the petitioner dig out the sand and filled up the same in cement bag. After, seeing the respondent police, he ran away from the place of occurrence. The petitioner has filled river sand in 40 cements bags worth about Rs.6,000/-. Hence, the complaint.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent Police.



4.The learned counsel appearing for the petitioner submitted that the petitioner is the licensed Government Contractor and he had taken tender from the District Collector, Tirunelveli. Based on his tender dated 27.08.2020 for implementation of Jai Jeevan Mission 2019-2020 to provide functional household tap connection to the rural household in T.Ariyanayagipuram Village Panchayat in Cheranmahadevi Panchayat Union, Tirunelveli District. As per the contract, in order to make a sump worth about 1,00,000 Litres capacity OHT (1 Nos), the petitioner dig out some sand from the said place. Without even seeing the said work order and also the contract allotted in favour of the petitioner, the respondent and the other revenue officials harassed the petitioner under the guise of enquiry. In fact, the petitioner filed a petition before this Court in Crl.OP(MD)No.11708 of 2020 dated 14.10.2020 for not to harass. Only after filing this petition, the respondent registered the present case under Section 379 of IPC. Therefore, the petitioner has not indulged in any kind of offence under Mines and Minerals Act. Hence, he prayed for anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the petitioner has illegally dig out 40 cement bags of the river sand under the river bed. Therefore, he committed a offence under Section 379 of IPC. Hence, he opposed to grant anticipatory bail to the petitioner.

6.It is seen that the petitioner was awarded a contract by the District Collector, Tirunelveli order dated 27.08.2020 for the following works:-

1.Extension of PVC Delivery Pipe Line with FHTCs Annathakrishnapuram Village in T.Ariyanayagipuram Panchayat.

2.Construction of 30,000 Litres capacity OHT (6.0m Stage - 1 Nos) Extension of PVC Delivery Pipe Line with FHTCs Udayamarthandapuram Village in T.Ariyanayagipuram Panchayat.

3.Construction of 30,000 Litres capacity OHT (6.0m Stage - 1 Nos) Sump of 100000 Litres capacity (1Nos) Extension of pumping main Pipeline from Infiltration well to Sump & pumpset Arrangements Extension of PVC Delivery Pipe Line with FHTCs Keelasakthikulam Village in T.Ariyanayagipuram Panchayat.

4.Construction of 30,000 Litres capacity OHT% (6.0m Stage - 1 Nos) Extension of PVC Delivery Pipe line with FHTCs Shenbagavalliamman colony Village in T Ariyanayagipuram Panchayat.

5.Extension of PVC Delivery Pipe line with FHTCs Mela Sakthikulam Village in T Ariyanayagipuram Panchayat.

7.When the petitioner dig out some sand from the occurrence place for the purpose of contract work, the respondent police, registered the case as if, he has in possession of river sand.

8.Considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain



7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned the Judicial Magistrate Court, Cheranmahadevi, 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 his photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity;

(b) the petitioner shall report before the respondent police as and when required for interrogation.

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

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

(e) 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;

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

sd/-
03/11/2020

/ TRUE COPY /

/ /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,
CHERANMAHADEVI.

2. -DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3. THE INSPECTOR OF POLICE,
CHERANMAHADEVI POLICE STATION,
TIRUNELVELI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.11917 of 2020

Date : 03/11/2020

DSS

AE/SMA/SAR-II (05.11.2020) 4P 5C