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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.12.2021

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THE HONOURABLE MR. JUSTICE B. PUGALENDHI

CRL.O.P.No.25892 of 2021

1. R.Mahendran ... Petitioners
2. Ashok Kumar

Versus

State Rep by ... Respondent
The Inspector of Police
Erumapatti Police Station,
(*)Namakkal District.
(Crime No.710 of 2021)

Prayer:-Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure seeking to enlarge the petitioners on anticipatory bail in the event of their arrest in Crime No.710 of 2021 pending investigation on the file of the respondent police.

For Petitioners : M/S.W.Camyles Gandhi
For Respondent : Mr.L.A.J.Selvam
Government Advocate (Crl. Side)

ORDER

The petitioners, who apprehends arrest for the alleged offences under Section 379 IPC (Sand Theft) in Cr.No.710 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners were involved in illegal possession of three units of gravel sand in torres tipper.

3. The learned counsel appearing for the petitioners submit that the petitioner have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.side) submits that the petitioners/A1 and A2 were driver and owner of the vehicle respectively. The petitioners involved in illegal possession of three



units of gravel sand worth about Rs.2,300/- in torres tipper bearing Registration No.Tn-88-F 5214. He further submits that there are no previous cases pending against the petitioners. However, he opposed for granting anticipatory bail to the petitioners.

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5. Considering the submissions made by the learned Government Advocate, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, II, Namakkal, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 learned Magistrate concerned and on further condition that:

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

(b)the petitioners shall appear before the respondent police as and when required for interrogation;

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

(d)the petitioners 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 anticipatory 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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-sd/-
29/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

[*]Amended as per order of this court dated 12.01.2022 made in Crl.MP.NO.221/2022 in Crl.O.P.No. 25892/2021 by THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI .

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ERUMAPATTI POLICE STATION,
(*)NAMAKKAL DISTRICT.

5 THE INSPECTOR OF POLICE,
ERUMAPATTI POLICE STATION,
COIMBATORE DISTRICT.

+1 CC to M/S. W.CAMYLES GANDHI Advocate on payment of necessary charges SR.NO.716

CRL OP.25892/2021

Date :29/12/2021

TA-03/01/2022

INBA~25/01/2022