



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/01/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.220 of 2021

Muthuraj

... Petitioner/Accused No.1

Vs

State Rep. by
The Sub Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.

... Respondent/Complainant

For Petitioner : M/s.Nithyaesgh Nataraj.,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

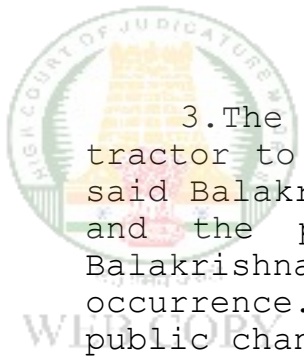
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No. 987/2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/ accused No.1, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 379 of IPC read with Section 21(4) of Mines and Minerals [Development and Regulation] Act, 1957, in Crime No.987 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that on 24.10.2020 when the Village Administrative Officer of Keelathiruthangal Village had received information that gravel has been illegally mined and transported and hence, they were keeping a vigil in the village and at about 4.30am, on 24.10.2020, they found a JCB was taking gravel and loading it in a tractor bearing Registration Nos.TN 95 B 7648 TN 79 Y 7060 and these vehicles transported the gravel. On seeing the *de facto* complainant, the persons therein ran away and the Driver of the JCB one Balakrishnan disclosed that the tractor belongs to the petitioner and his wife Yasotha and thereafter, he lodged a complaint. In consequence, the case came to be registered.



3.The petitioner contends that the petitioner had let the tractor to one Balakrishnan for hire for agricultural purposes. The said Balakrishnan, used the tractor for transportation of the gravel and the petitioner had no knowledge about such act of the Balakrishnan and the petitioner was not present in the scene of occurrence. Further, the gravel is said to be available in the public channel of the village.

4.It is further contended by the petitioner that the 2nd accused in this case was granted anticipatory bail in Crl.O.P(MD) No.12241 of 2020 on 02.01.2020 and the main accused in this case was granted anticipatory bail in C.M.P.No.1904 of 2020, by the learned Principal District and Sessions Judge, Virudhunagar District. As regards this petitioner, he had earlier filed three anticipatory bail petitions and the same were dismissed. Now one of the co-accused was granted anticipatory bail. Hence the present petition has been moved by the petitioner.

5.The learned Government Advocate (Crl.Side) appearing for the State would submit this petitioner is a named accused in the FIR. The petitioner's tractor was involved in the illegal transportation of gravel sand and the other accused Yasotha and Balakrishnan were granted anticipatory bail. The petitioner was not present in the scene of occurrence. However, the petitioner had already involved in similar such offence and therefore, he opposes this petition.

6.Taking into consideration the facts and circumstances of the case and also taking into consideration the fact that the entire gravel sand seized by the respondent police, the other accused granted anticipatory bail, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Sivakasi on the following conditions:

(a) the petitioner shall draw a demand draft in favour of Dean, Government Rajaji Hospital, Madurai for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** without prejudice to his rights and contentions before the trial Court. The petitioner shall produce the proof of remittance /submission of Demand Draft to Dean while executing sureties.

(b) On acknowledgment of the same by the Dean, Government Rajaji Hospital, Madurai, 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:



(c)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 identity;

(d)the petitioner shall report before the respondent police daily at 10.30am, for a period of fifteen days and thereafter, report as and when required for interrogation.

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

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

(g)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;

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

sd/-
08/01/2021

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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.

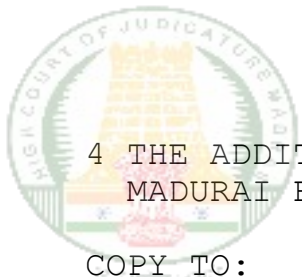
TO

1 THE JUDICIAL MAGISTRATE NO.II,
SIVAKASI.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUTHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE SUB INSPECTOR OF POLICE,
SIVAKASI EAST POLICE STATION,

<https://hcservices.ecd.hima/ba/vices> VIRUTHUNAGAR DISTRICT.



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

COPY TO:

THE DEAN,
GOVERNMENT RAJAJI HOSPITAL, MADURAI.

ORDER

IN

CRL OP(MD) No.220 of 2021

Date :08/01/2021

DSK

JM/VR/SAR III/18.01.2021/4P/6C