



WEB COPY

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

Date : 09/02/2021

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.1458 of 2021

1. Chinna Nadar
2. Sivakumar
3. Ganesan

... Petitioners/Accused Nos. 1 to 3

Vs

The State rep.by
The Inspector of Police,
Pudhukadai Police Station,
Kanyakumari District.
Crime No. 551/2020.

... Respondent/Complainant

For Petitioners : Mr.G.Thalaimutharasu,
Advocate.

For Respondent : Mr.M.Ganesan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 551/2020 on the file of the
respondent Police

ORDER : The Court made the following order :-

The petitioners/A1 to A4, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections
435, 286 of IPC and 9(B) (1) (b) Explosive Act 1884, 3 of Explosive
Substances Act, 1908 and 109 IPC seek anticipatory bail.

2. Heard both sides.

3.The case of the prosecution is that on 19.12.2020, at about
09.00 a.m, the Village Administrative Officer, got secret

<https://hcservices.ecourts.gov.in/hcservices/>



information that the petitioners have created a blast by using explosive substances with the help of Driller attached with the Tractor, without getting any valid permission. Thereby, caused life threat to the neighbouring resident and vibrating for the houses.

4. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that this is the second anticipatory bail application filed on the ground that there is a change of circumstance, by which, one of the co-accused was released on bail and the first petitioner is aged about 80 years and he appears to be owner of the land, from which, the illegal explosive operation was undertaken. Earlier anticipatory bail application in Crl.OP(MD)No.16092 of 2020, dated 30.12.2020, was dismissed on the ground that the investigation is in initial stage. Now, a major portion of the investigation is completed and the custodial interrogation of the petitioners do not require in this case. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. The learned Government Advocate (Crl.Side) would submit that this is the second anticipatory bail application. Without getting prior permission and license from the concerned authorities, the petitioners have used explosive substances illegally and caused damage to the neighbouring houses. He also produced CD file before this Court and he submitted that the investigation is almost over.

6. It is seen that the earlier bail application in Crl.OP(MD) No.16092 of 2020 was dismissed while I was sitting in the vacation Court on 30.12.2020. This is the second anticipatory bail application filed by the petitioner on the ground that there is a change of circumstance, by which, one of the co-accused was released on bail and the first petitioner is aged about 80 years and he appears to be owner of the land, from which, the illegal explosive operation was undertaken. The learned Government Advocate (Crl.Side) has produced CD file before this Court, which shows that a major portion of the investigation is over and charge sheet has to be filed before the concerned Magistrate.

7. Taking into consideration the facts and circumstances of the case and also taking note of the fact that the investigation is almost over and the custodial interrogation of the petitioners do not require, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their 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, Kulithurai, on condition that the petitioners shall execute a bond for a sum of Rupees Ten 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 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;

(b) the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter 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 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.

sd/-
09/02/2021

/ TRUE COPY /

/ /2021

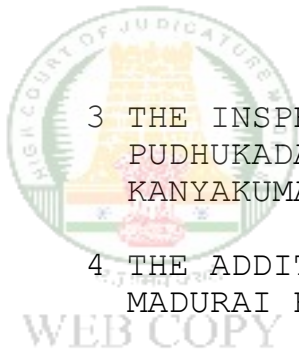
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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, KULITHURAI.

2.-DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.



3 THE INSPECTOR OF POLICE,
PUDHUKADAI POLICE STATION,
KANYAKUMARI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.1458 of 2021

Date :09/02/2021

DSS

AE/JC/SAR-I (15/02/2021) 4P / 5C