



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/01/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.475 of 2021

S.Kavin

... Petitioner/Accused

Vs

The State Represented by,
The Sub Inspector of Police,
Pettavaithalai Police Station
Trichy District.
Crime No.751/2020.

... Respondent/Complainant

For Petitioner : MR.S.Vinayak
Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory bail in Crime No.751/2020 on the file of the respondent Police

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 379 IPC r/w Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.751 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The gist of the case is that on 10.12.2020, at about 11.30 p.m., the Irrigation Assistant, River Safety Division, Mukkombu had lodged a complaint stating that on 10.12.2020, at about 9.00 p.m., while he was in inspection duty in Cauvery river, the petitioner loaded river sand in gunny bags by using two wheeler. On seeing the defacto complainant, the petitioner ran away from the occurrence.

3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the

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prosecution and he has been falsely implicated in this case. He further submitted that the petitioner was not taken the sand from the river and he had taken the left over sand from the construction site and he did not use the same sale or profit. Hence, he prayed for grant of anticipatory bail to the petitioner.

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5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that there is no previous case pending against the petitioner.

6.Considering the facts and circumstances of the case and also considering the fact that there is no previous case pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioner shall draw a demand draft in favour of Dean, Government Rajaji Hospital, Madurai for a sum of **Rs.5,000/- (Rupees Five 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. On acknowledgment of the same by the Dean, Government Rajaji Hospital, Madurai, 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 Judicial Magistrate, Srirangam, Trichy District 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 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 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned



Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

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

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sd/-
18/01/2021

/ /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, SRIRANGAM,
TRICHY DISTRICT
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3.THE SUB INSPECTOR OF POLICE,
PETTAVAITHALAI POLICE STATION,
TRICHY DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO : THE DEAN, GOVERNMENT RAJAJI HOSPITAL, MADURAI

+1. CC to MR.S.VINAYAK, Advocate SR.No.326

ORDER
IN
CRL OP(MD) No.475 of 2021
Date :18/01/2021

GNS
PK/SMA/SAR-I/25.01.2021 : 3P/7C