



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/01/2021

WEB COPY

PRESENT

The Hon'ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.769 of 2021

A.Jayasekar

... Petitioner/Accused No.3

Vs

The State rep. by
The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
(Crime.No. 473 of 2020).

... Respondent/Complainant

For Petitioner : Mr.B..Christopher, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.473 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as third accused, apprehending arrest at the hands of the respondent police for the offence punishable under section 379 I.P.C., in Crime No.473 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 30.09.2020, the petitioner and two others have in possession of 49 plastic cement bags of sand near Paraliarru river, without obtaining any permission from the Government authorities. Hence, a complaint has been registered.

3.The learned counsel appearing for the petitioner submitted that the petitioner and two others have taken sand from a patta land situated near Paraliarru river, as per the instruction given by the owner of the property. It is further stated that the respondent police have already arrested the accused 1 & 2. He would further submit that he has not involved in any previous case and he is a law abiding citizen and he undertakes to furnish solvent sureties for



his release on Anticipatory bail and prayed to for grant of anticipatory bail.

4.The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that totally there are three accused in this case. Accused 1 and 2 were already granted anticipatory bail, as per the order of the learned Principal District Judge, Kanyakumari in CMP No.4281 of 2020. The petitioner is arrayed as A3 in this case. There is no previous case pending against the petitioner.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

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

7.Accordingly, the petitioner shall draw a demand draft in favour of **The Dean, Government Rajaji Hospital, Madurai for a sum of Rs.10,000/- (Rupees Ten 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 No.II, Padmanabhapuram, 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 daily at 10.30 a.m for a period of two weeks and thereafter, 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 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

21/01/2021

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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,
PADMANABHAPURAM, KANYAKUMARI DISTRICT.
2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
THIRUVATTAR POLICE STATION,
KANYAKUMARI 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.B.CHRISTOPHER, Advocate (SR-426[I] dated 22/01/2021)

ORDER

IN

CRL OP(MD) No.769 of 2021

Date :21/01/2021

VRN

<https://hservices.ecourts.gov.in/hservices/> SRS/SMA/SAR-I/20.01.2021/3P/7C