



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction

Tuesday, the Twenty Third day of February Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD)No.863 of 2021

1. Katchi Mydeen

2. Muthu Thandavar

... Petitioners/Accused No.23 & 24

/ VERSUS /

The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.
(Crime No. 417/2020)

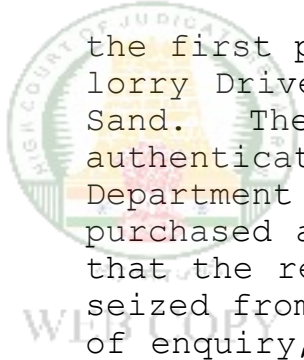
... Respondent/Complainant

Petition filed Section 438 of Criminal Procedure Code, praying this Court to enlarge the Petitioners on Bail in the event of their arrest in Crime No. 417 of 2020 on the file of the Respondent Police pending investigation.

ORDER:- This Original Petition coming up for hearing on this day, upon perusing the petition and the earlier order of this Court and upon hearing the arguments of Mr.N.Ananthapadmanabhan, for M/s APN Law Associates Advocate for the Petitioners and of Mr.A,P,G,Ohm Chairma Prabhu, Government Advocate (Criminal Side) on Behalf of the Respondents, this Court made the following order :

The petitioners/A23 & A24, who apprehend arrest at the hands of the respondent police for the offence under Sections 379 IPC altered into Sections 120(B), 379 IPC (Sand Theft) r/w Section 21(1)(IV) Mines and Minerals (Development & Regulation)Act altered into Sections 420, 465, 471, 120B, 379 IPC (Sand Theft) r/w Section 21(1)(IV) Mines and Minerals (Development & Regulation)Act in Crime No.417 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The contention of the petitioners is that the first petitioner is a building Contractor, who has brick chamber in the name of M.S.Bricks. For his construction business, he used to placed orders to A1 through A3, who is the licensed by the Quarry the sand in Survey No.843 situated in Pottal Village, Therku Kallidaikurichi Part-2, Ambasamuthram Taluk, Tirunelveli District. A1 was selling sand to Bhoomi Sand, from whom



the first petitioner used to buy sand. The second petitioner is the lorry Driver of one Kubera Sundar, who is the proprietor of Bhoomi Sand. The petitioners has also produced transit pass, which was authenticated by the Assistant Director, Mines and Minerals Department and he purchased 17 units of M-Sand and he had not purchased any river sand as now projected. Further it is submitted that the respondent police has not seized his lorry and no sand was seized from his place. Since the respondent police under the guise of enquiry, harassed the petitioners and hence, they filed CrI.O.P. (MD)No.12175 of 2020 before this Court on 28.10.2020 and during enquiry on 02.11.2020, it was informed that the petitioners have been added as accused as A23 and A24. It is further stated that in FIR, the respondent police added A1 as accused, thereafter, on 05.10.2020, 21 persons were added and 22 persons were shown as accused. Subsequently, another alteration report was filed altering the Section by including offence of forgery, in which, the same persons were shown as accused and the petitioners name were not found place. Hence, the petitioners would pray for grant of anticipatory bail.

3.The learned Government Advocate(CrI.side) appearing for the respondent police, on instructions, would submit that the first petitioner is the close associate of A3, who is the close friend of A1. Though A1 was permitted to quarry sand in survey No.843 by an order in Na.Ka.No.A1/7344/2019, dated 09.11.2019 for five years from 29.11.2019 to 28.11.2024 and he was permitted to store 41996 cpm. After registration of the case, it was found that A1 and others taking sand not only from S.No.843, but also taking sand from S.Nos.839/2, 846/10, 850/3A, 846/6, 833/5, 811/2 and 849/5 and 11,000 unit sand was illegally transported by the accused persons. In this case A3 and A2 are working in the Agriculture Department and A2 is the husband of the Assistant Director of Mines and Minerals Department. The Government officials in connivance with the private parties, had committed illegal transportation of sand and these petitioners facilitated the same. This case is not simple as projected by the learned counsel for the petitioner. A detail investigation only reveals the role of the petitioners herein and hence, he opposed to grant anticipatory bail to the petitioners.

4.On perusal of the materials shows that the natural resources were exploited in connivance with the Government Officials and the role of the other accused and the loss caused by them have to be ascertained. The Sub-Inspector of Police is unable to assist the Court.

5.In view of the above, the Superintendent of Police, Tirunelveli is directed to file status report by stating the stage of the investigation and he is also directed to monitor the investigation in this case. Further, the Deputy Superintendent of Police, Cheranmahadevi is directed to appear before this Court along with CD file. Post the matter on 10.03.2021. The respondent police is directed not to take any coercive action against the petitioners



6. Registry is directed to serve copy of this order to the Superintendent of Police, Tirunelveli and to the Deputy Superintendent of Police, Cheranmahadevi.

Sd/-

Assistant Registrar (Records)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

Gns

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 Superintendent of Police, Tirunelveli.
2. The Deputy Superintendent of Police, Cheranmahadevi.
3. The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.
(Crime No. 417/2020)
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai. (2C)

ORDER DATED : 23/02/2021

=====

ORDER

=====

CRL OP (MD) No. 863 of 2021

Giving direction and etc.
as stated within.