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CRL OP(MD). No.1176 of 2021

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

Reserved on : 18.03.2021

Pronounced on : 22.03.2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.1176 of 2021

K.S.Rameshbabu ... Petitioner/Petitioner/Accused No.1

Vs

State rep.by,
The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.
(In Cr.No.1453/2020).

... Respondent/Respondent/Complainant

For Petitioner : Mr.Veerakathiravan
Senior Counsel for
Mr.G.Mathavan,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.1453/2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ A1 apprehending arrest at the hands of the respondent police for the offences punishable under sections 379 I.P.C r/w.Section 21(1)(2) of Mines and Minerals (Development and Regulation) Act on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 22.10.2020, while the Inspector of Police, Aranthangi Police Station along with his team were on patrol duty keeping watch over the illegal mining and transportation of river sand at about 13.15 hrs near Porkudaiyarkovil division they saw the taurus lorry bearing Reg. No. TN 55 BY 7081. The Inspector of Police stopped the lorry and found



6 units of river sand. When A2 was questioned he disclosed that he was employed by the petitioner and it was the petitioner who had instructed A2 to transport six units of river sand. Thereafter the lorry was seized and produced before the respondent police and the First Information Report came to be registered.

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3.The learned Senior Counsel appearing for the petitioner would submit that the petitioner had agricultural land at Aranthangi Village, for agricultural development he had excavated some sand in the field and the same has been loaded in the front side of his house and he has been falsely implicated in this case. He would also submit that the petitioner is a class I contractor and as per the Prathan Mantri Awas Yojana Scheme, he was permitted to take sand from the nearby area for the purpose of construction of house under the scheme in the said area allotted to him. He had also produced the proceedings of the Block Development Officer, Aranthangi in Na.Ka.T.4/919/2019 dated 31.07.2020 wherein it was stated that permission was granted to one Selvarani, W/o. Ramaiah to excavate and transport sand from 05.08.2020 to 06.08.2020 using the following vehicles. JCB TN 55 BY 9851, Tipper Lorry No.TN 45 BA 5143 and Tipper Lorry No. TN 49 Q 0609 . He further submitted that the petitioner had been targeted by the respondent police since he had obtained anticipatory bail in Crime No. 301 of 2019 on 29.07.2019. During hearing there was some remarks passed against the respondent police for which the petitioner has been falsely implicated in this case. He has also produced a type set of papers wherein he had produced the income tax assessment for the year 2017-2018, 2018-2019 and also document showing that the petitioner is a class-I contractor. He would also submit that it is almost six months from the registration of the case and the custodial interrogation of the petitioner is not required and some of the accused persons were released on bail, hence he seeks anticipatory bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police filed a counter and a type set and submitted that permission was not granted by the Block Development Officer, Aranthangi to transport river sand in the said loory which is involved in the present case. He would also submit that the order for transporting the river sand for the particular village had been issued only for the period of two days the same has been stopped by the District Collector on 07.08.2020 vide proceedings in Na.Ka.Ji/3005/2017, where as the present case has been registered on 22.10.2020 and the petitioner cannot rely on the said proceedings for defending the present case filed against him. Further on a demurer it was submitted that the permission was granted to one Selvarani and not to the petitioner. He would also submit that the petitioner is having 10 previous case out of which four cases are under the Mines and Minerals Act. He would also submit that the petitioner had earlier applied for anticipatory bail in Crl.O.P(MD) No.10293 of 2020 and the same was dismissed by this Court on 10.08.2020.

<https://hnservices.courts.gov.in/hnservices>



04.11.2020, hence he opposed to grant anticipatory bail to the petitioner.

5. From the perusal of the materials it is seen that Block Development Officer (Aranthangi) vide Na.Ka.T.4/ 919/2019 dated 31.07.2020 had granted permission to transport six units of river sand in JCB TN 55 BY 9851, Tipper Lorry TN 45 BA 5143 and Tipper Lorry TN 49 Q 0609 from 05.08.2020 to 06.08.2020, but the above case came to be registered on 22.10.2020 much later. Further the vehicle involved in this case is taurus lorry bearing Reg. No. TN 55 BY 7081 and the said lorry has not been permitted by the Block Development Officer to transport sand and further there is no proof to show that the said Selvarani had entrusted the work to the petitioner. The Block Development Officer on the request of the respondent police had sent communication in Na.Ka.No. T/1318/2040 T.4 dated 02.02.2021 stating that the permission already granted to the beneficiaries to quarry sand from the nearby by place was cancelled by the Collector in Na.Ka.No.G//3006/2017 dated 07.08.2020. Hence the contention of the petitioner cannot be accepted.

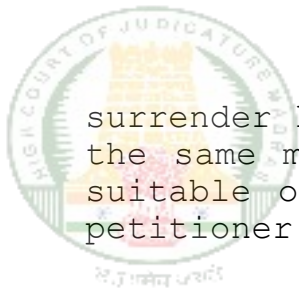
6. Further from the photos produced it is seen that the lorry is filled with full load of river sand which has been seized and the ownership of the lorry is not disputed. The petitioner being owner of the lorry produced documents which is not helpful to the petitioner and on the other hand had only exposed the habituality of the petitioner in the crime. On earlier occasion it is seen that 54 units of sand had been heaped by the petitioner and further from the Income Tax statement it is seen that the petitioner is owning number of tipper lorries and JCB making huge earnings which is multiplying year by year. Further the petitioner is a habitual offender involved in similar types of offences. Though this Court is taking strict action by stringent measures to control the illegal sand mining, many persons as that of the petitioner are indulging in similar type of offences. It is known secret that illegal sand mining and transportation cannot be carried without the patronage and tactful support of the powerful persons and officials. Further this Court had earlier shown indulgence on the petitioner by granting him anticipatory bail on earlier occasion, which is now taken advantage and violated. In this case respondent police have taken appreciable steps in curbing illegal sand mining and transportation. In view of the petitioner's notoriety and indulgence in similar type of offence again, this Court is not inclined to grant anticipatory bail to the petitioner.

6. In the result, the petition stands dismissed.

sd/-

22/03/2021

After pronouncing orders the learned Senior Counsel appearing for the petitioner submitted that the petitioner is willing to



surrender before the concerned Court with necessary application and the same may be considered on the same day by the Court below and suitable orders may be passed on the petition to be filed by the petitioner.

2. In view of the above submission the petitioner is directed to surrender before the concerned Court and to file necessary application seeking relief. The Special Court to consider the same independently on its own assessment on notice to the respondent, on merits of the case and to pass orders on the same day in accordance with law.

sd/-
22/03/2021

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/ /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, ARANTHANGI,
PUDUKKOTTAI DISTRICT.
 2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
 3. THE INSPECTOR OF POLICE,
ARANTHANGI POLICE STATION, PUDUKKOTTAI DISTRICT.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2.CC to Mr.G.MATHAVAN, Advocate SR.Nos.2557, 2408

ORDER
IN
CRL OP(MD) No.1176 of 2021
Date :22/03/2021

PK/SMA/25.03.2021 : 4P/7C