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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/02/2021

PRESENT

The Hon'ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.1505 of 2021

Muniswaran

... Petitioner

Vs

The State Rep. by
The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.
Crime No. 08 of 2021.

... Respondent

For Petitioner : Mr.Jeyaram Sidharth.N,
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.08 of 2021 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A3, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 324, 332, 307 and 379 of IPC r/w Section 21(1) of Tamilnadu Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.8 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on receiving secret information, on 09.01.2021 at about 03.00 a.m, the defacto complainant along with other police officials intercepted one Tractor. On seeing the police party, the petitioner and other accused persons said to have attempted to escape from the scene of occurrence, at that time, the defacto complainant restrained the accused persons to do so. Due to which, the petitioner and other accused persons said to have attacked the defacto complainant and



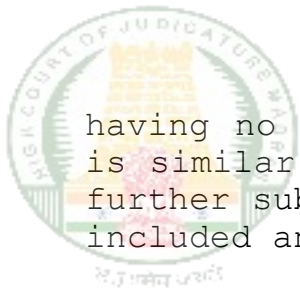
caused injuries and escaped from the scene of occurrence. Initially a case was registered under Sections 294(b), 323, 324, 332, 307 and 379 of IPC, subsequently, the case was altered into Sections 294(b), 323, 324, 332, 307 and 379 of IPC r/w Section 21(1) of Tamilnadu Mines and Minerals (Development and Regulation) Act, 1957.

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3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

4. The learned counsel appearing for the petitioner submitted that when the petitioner and other accused persons were proceeding to their field in the Tractor of A-2, having Registration No. TN-65-AV-2614 MF, on the early hours at 03.30 a.m on 09.01.2021, at that time, they were intercepted by the respondent police and the de-facto complainant demanded money, which was objected by the petitioner and other accused persons and there was a fight, for which, the petitioner and other accused persons have been falsely implicated in this case. He further submitted that the alleged occurrence is said to have taken place on 09.01.2021 at about 03.30 a.m., and a complaint has been lodged only at 08.00 a.m. The police station is within 4 kms and there is no reason for the delay in lodgment of the complaint. He further submitted that in this case, the Tractor alone was seized and Trailer, in which, $\frac{1}{2}$ unit of sand is said to have been transported has not been seized and produced and the petitioner and other accused persons have been falsely implicated in this case. He further submitted that the petitioner and others are agriculturist, who were only proceeding to the field. Hence, he prayed for grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Criminal side) for the respondent submitted that in this case, A-2 was standing as an escort for facilitating the smooth transport of river sand. A-1 was driving the vehicle, A-3 and A-4 were sitting in the Trailer. On prior information, the respondent police had reached the place and was keeping watch, at that time, A-2 attempted to escape from the scene and he was caught and enquired. During enquiry, they found the Tractor with the Trailer driven by A-1 and thereafter, A-2 shouted at A-1 to run over the de-facto complainant. The de-facto complainant luckily escaped. Otherwise, the de-facto complainant and other police men would have been run over and killed. The sand was thrown from the Trailer on the de-facto complainant and others using the spade and all the accused also attacked the de-facto complainant. Thereafter, two persons came there and rescued them and later, the de-facto complainant and others went to the Kadaladi Public Health Centre took treatment and thereafter, lodged a complaint. Hence, there was a delay in lodging the complaint. The accused are regularly indulging in sand smuggling and would go to the extent of attacking the public servant by assaulting them. He further submitted that A-1 is having three previous cases, out of three cases, two cases are similar in nature, A-2 is having two previous cases, out of one case, which is similar in nature, A-3 is



having no previous case and A-4 is having one previous case, which is similar in nature and all the accused are regular offenders. He further submitted that in this case Mines and Minerals Act have been included and an alteration report had been produced on 09.01.2021.

6. On perusal of the materials available on records, it is seen that the occurrence said to have taken place on 09.01.2021 at about 03.30 a.m and thereafter, the defacto complainant taken treatment in the hospital and came to the police station and lodged a complaint. After registration of FIR, Tractor and Trailer were seized from a isolated place. All the accused persons said to have attacked the de-facto complainant and others by using spade. It is also seen that in the seizure mahazer, there is no sand available in the Tractor and Trailer. The case is that the accused were found illegally transporting half unit of river sand.

7. Considering the facts and circumstances of the case and also considering the fact that the injured person has already been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, 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 Judicial Magistrate Court, Kadaladi, Ramanathapuram 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 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

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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,
KADALADI,
RAMANATHAPURAM DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT
3. THE INSPECTOR OF POLICE,
SAYALKUDI POLICE STATION,
RAMANATHAPURAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.1505 of 2021
Date :17/02/2021
(2/4)

VSG
TE/JC/SAR-III : 22/02/2021 : 4P/5C