



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

Date : 09/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.1726 of 2021

Mariskumar @ Vijay

... Petitioner/Accused No.1

Vs

The State of Tamil Nadu,
Rep.by its.,
The Inspector of Police,
Uchipuli Police Station,
Ramanathapuram District.
Crime No.40/2021.

... Respondent/Complainant

For Petitioner : Mr.R.Babu Jaganath,
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.40 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at the hands of the respondent police for the offences punishable under section 21(4) of Tamilnadu Mines and Minerals (Development and Regulation) Act, 1957, r/w Section 379 of IPC, in Crime No.40 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and other accused were said to have illegally transported half unit of sea sand. Hence, a complaint has been registered.

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 the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He



further submitted that the said sand is only a sea sand and it is used for the purpose of laying play ground and not for using any commercial purpose. He further submitted that the petitioner is not having any bad antecedent. 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 and the said sand is a sea sand and it was taken for the purpose of laying play ground and not for using any other commercial purpose, this Court is 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, Ramanathapuram Medical College Hospital, Ramanathapuram, 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, Ramanathapuram Medical College Hospital, Ramanathapuram, 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 No.II, Ramanathapuram, 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

<https://hccservices.courts.gov.in/Kcse/CaseDetails.aspx?CaseNo=1726&CaseType=CRL> **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/-
09/02/2021

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/ TRUE COPY /

/ /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 NO.II,
RAMANATHAPURAM.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
UCHIPULI POLICE STATION,
RAMANATHAPURAM DISTRICT
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO : THE DEAN,
RAMANATHAPURAM MEDICAL COLLEGE HOSPITAL,
RAMANATHAPURAM.

ORDER
IN
CRL OP(MD) No.1726 of 2021
Date : 09/02/2021

VSG
PK/SMA/SAR-III/17.02.2021 : 3P/6C