



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/03/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.2230 of 2021

Palanisamy

... Petitioner/Accused No.6

Vs

1. The Inspector of Police,
Sayerpuram Police Station,
Tuticorin District.
(Crime. No.152/2019)

2. The Inspector of Police,
District Crime Branch Police Station,
Tuticorin.

... Respondents/Complainants

For Petitioner : Mr.Paulmuruges.S.,
Advocate.

For Respondents: Mr.R.Srinivasan,
Government Advocate (Crl.Side)

For Intervener : Mr.V.Malaiyendran
Advocate

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

PRAYER :-

For Anticipatory Bail in Crime no.152 of 2019 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A6, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 109 and 379 of IPC and Section 21(1) of the Mines and Minerals Act, in Crime No.152 of 2019 on the file of the respondent police, seeks anticipatory bail.



2.The case of the prosecution is that the petitioner and other accused persons were said to have illegally transported one and half units of river sand by using tractor. Hence, the present complaint.

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

4.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that A2 to A4 have already been arrested and released on bail by this Court in Crl.O.P. (MD).No.18727 of 2019, dated 13.12.2021 and A5 has already been granted anticipatory bail by this Court in Crl.O.P.(MD).No.18531 of 2019, dated 16.12.2019. Hence, he prayed for grant of anticipatory bail to the petitioner.

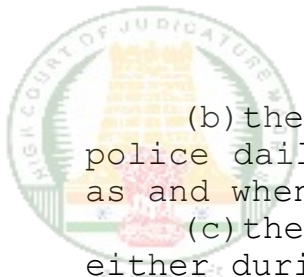
5.The learned counsel appearing for the intervener/defacto complainant submitted that the petitioner and other accused persons were said to have quarried the defacto complainant's patta land and removed about 1,500 units of sand. Hence, he opposed bail petition.

6.The learned Government Advocate(Crl.Side) appearing for the respondent Police submitted that the sand was recovered by the respondent police. He further submitted that no previous case is pending against the petitioner.

7.Considering the facts and circumstances of the case and also considering the fact that the sand was recovered by the respondent police and no previous case is pending against the petitioner and co-accused have already been granted bail and anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is directed to deposit a sum of **Rs.1,00,000/- (Rupees One Lakh only)** to the credit of Crime No.152 of 2019 before the trial Court. On such deposit, 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.IV, Tuticorin, 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 second 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.

sd/-

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsg

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.IV,
TUTICORIN.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN.
- 3 THE INSPECTOR OF POLICE
SAYERPURAM POLICE STATION,
TUTICORIN DISTRICT
- 4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH POLICE STATION,
TUTICORIN



5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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ORDER

IN

CRL OP(MD) No.2230 of 2021

Date :05/03/2021

NR/PN/SAR-IV(05.03.2021) 4P:6C