



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

Date : 04/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.2673 of 2021

1.Ajin @ Ajin Prasath
2.Sunil
3.Saktheeswaran
4.Sreekumar @ Sreekumaran ... Petitioners/Accused No.2 to 5

Vs

The State rep.by
The Sub Inspector of Police,
Marthandam Police Station,
Kanniyakumari District.
Crime No.807 of 2020. ... Respondent/Complainant

For Petitioners: Mr.A.Balakrishnan,
Advocate.

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

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

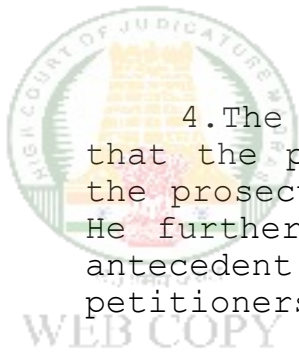
PRAYER :- For Anticipatory Bail in Crime No.807 of 2020 on the
file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused Nos.2 to 5,
apprehending arrest at the hands of the respondent police for the
offences punishable under Sections 379 of I.P.C., and 21(1) of
Tamilnadu Mines and Minerals (Development and Regulations) Act,
1957, in Crime No.807 of 2020 on the file of the respondent police,
seek anticipatory bail.

2.The case of the prosecution is that the petitioner and other
accused were said to have illegally transported two units of red
soil by using JCB and Tempo. Hence, a complaint has been registered.

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



4.The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that the petitioners are not having any bad antecedent. Hence, he prayed for grant of anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that there is no previous case pending against the petitioners.

6.The learned counsel appearing for the petitioner has produced the copy of the photographs, tax receipt and patta.

7.On perusal of the materials available on records, it is seen that the first accused is the owner of the property situated in Sy.No.892/1 at Nettalam Village, in which, the petitioner was said to have excavated two units of red soil with the help of Mahendra Tempo, Hitachi JCB and TATA 407. It is also seen that the petitioners are the drivers and owners of Tempo, Hitachi JCB and TATA 407 and they used the vehicles only for the purpose of construction work.

8.Considering the facts and circumstances of the case and also considering the fact that there is no previous case pending against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

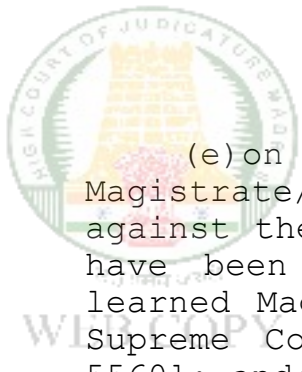
9.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate I, Kuzhithurai, on condition that the petitioners shall execute a bond for 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 petitioners 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 petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
04/03/2021

/ 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.I, KUZHITHURAI.

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3.THE SUB INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION,
KANNYAKUMARI DISTRICT.

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

+1 CC to Mr.A.BALAKRISHNAN, Advocate (SR-1840[I] dated 05/03/2021

ORDER
IN
CRL OP(MD) No.2673 of 2021
Date :04/03/2021

VSG
TK/PN/SAR.4/09.03.2021/3P/6C