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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.3161 of 2021

1. Aathi
2. Thirupathi
3. Krishnan @ Krishnasamy
4. Murugesan ... Petitioners/Accused No.7 to 10

Vs

The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.
(Crime.No. 152 of 2019)
... Respondent/Complainant

For Petitioners: Mr.M.Perumal,
Advocate.
For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)
For intervener : Mr.V.Malaiyendran
Advocate

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.152 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A7 to A10, who were arrested and remanded to Judicial Custody on 05.02.2021 for the offences punishable under Sections 379 and 109 of IPC r/w 21(i) of Mines and Minerals (Development and Regulation) Act, 1959, in crime No.152 of 2019 on the file of the respondent police, seeks bail.

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

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

4.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they 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 loadmen. 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 13.12.20219 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 bail to the petitioners.

5.The learned counsel appearing for the intervener/defacto complainant submitted that the petitioners 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 petitioners.

7.Taking into consideration the facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that 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 bail to the petitioners by imposing conditions.

8.Accordingly, the petitioners are ordered to be released on bail, subject to the following conditions

[a] Each of the petitioners are directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand Only) to the credit of Crime No.152 of 2019, within a period of two weeks, without prejudice to his defence before the trial Court.

[b]On such deposit,the petitioners shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Thoothukudi I/C.

[c] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

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[d] 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.

[e]the petitioners shall not abscond either during investigation or trial.

[f]the petitioners shall not tamper with evidence or witness either during investigation or trial.

[g]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].

[h]If the accused/petitioners thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
05/03/2021

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/ /2021
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 PRINCIPAL SESSIONS JUDGE (I/C),
THOOTHUKUDI.

2 THE INSPECTOR OF POLICE
SAWYERPURAM POLICE STATION,
THOOTHUKUDI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.

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

+1cc Mr.M.Perumal, Advocate Sr.No.1832

ORDER
IN
CRL OP(MD) No.3161 of 2021
Date :05/03/2021

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

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