



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/03/2021

PRESENT

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The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) Nos.3841, 3842 & 3843 of 2021

Crl.O.P. (MD) No.3841 of 2021

Vinayaga Moorthi

... Petitioner/1st Accused

Vs

The State represented by its
The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District
Cr No.23/2021.

... Respondent/Complainant

Crl.O.P. (MD) No.3842 of 2021

Sathiya Moorthi

... Petitioner/3rd Accused

Vs

The State represented by its
The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District
Cr No.25/2021.

... Respondent/Complainant

Crl.O.P. (MD) No.3843 of 2021

Muthukumar

... Petitioner/2nd Accused

Vs

The State represented by its
The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District
Cr No.24/2021.

... Respondent/Complainant

For Petitioner : M/s.Jeyakarthik.M.S.,
(in all Crl.OPs.) Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
(in all Crl.OPs.) Government Advocate (Crl.Side)



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

COMMON PRAYER :- For Anticipatory Bail in Crime Nos.23, 25 & 24 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following common order :-

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The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 IPC and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957 in Crime Nos.23, 25 & 24 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 31.01.2021, when the defacto complainant, who is the Sub Inspector of Police, went for surveillance in Malattaru river bed, they found that the petitioners illegally took the sand by using tractor and after seeing the police, they fled away from the scene of occurrence. Hence, the complaint.

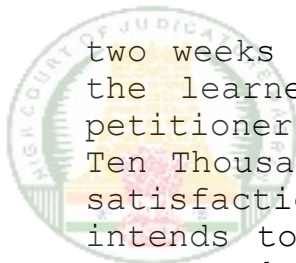
3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that the present case registered against the petitioners is a put up case. In an earlier occasion, the respondent police registered a case against the petitioners in Crime No.301 of 2020 stating that they illegally transported sand by using JCB. Therefore, the petitioners filed anticipatory bail in CrI.O.P.(MD)No.991, 3114 of 2021 and produced CCTV footage before this Court for establishing the fact that A1's JCB was forcibly taken away by the police. Thereafter, anticipatory bail was granted to the petitioners. Therefore, due to vengeance, the present cases were registered against the petitioners. Hence, he prayed for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (CrI. Side), appearing for the respondent police submitted that the petitioners herein are habitual offenders and they involved similar type of offence and hence, he opposed to grant anticipatory bail to the petitioners.

5.It is seen from the photographs produced by the learned Government Advocate that the photo was taken in a wide angle, which was not in normal. It is also seen for the very same occurrence, the respondent police registered three case individually against each of the petitioners. On perusal of the documents it is seen that the occurrence was not taken place as projected by the prosecution.

6.In view of the same, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.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, Kadaladi, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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:

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(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 appear before the respondent Police 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
12.03.2021

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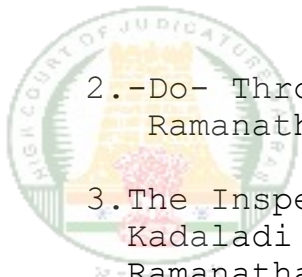
/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

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
<https://hcservices.ecourts.gov.in/hcservices/>

1. The Judicial Magistrate, Kadaladi.



2.-Do- Through The Chief Judicial Magistrate,
Ramanathapuram District.

3.The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+3 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-2078,2079,2080[I] dated
15/03/2021)

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12.03.2021

VB PN SAR 3(24.03.2021) 4P 8C