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

Date : 17/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.4065 of 2021

Sathiya Moorthi ... Petitioner/3rd Accused

Vs

The State, Represented by its,
The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.
(Crime No.301/2020). ... Respondent/Complainant

For Petitioner : Mr.M.S.Jeyakarthik.M,
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.301/2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as Accused No.3, apprehending arrest at the hands of the respondent police for the offences punishable under sections 379 of I.P.C. and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.301 of 2020 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 river sand by using JCB. Hence, a complaint has been registered.

3.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 petitioner is not having any bad antecedent. He further submitted that the A1 and A2 have already been granted anticipatory bail by this Court in Crl.O.P.(MD).Nos.991 and 3114 of 2021, dated 09.02.2021 and 26.02.2021. Hence, he prayed for grant of anticipatory bail to the petitioner.

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

5.On perusal of the materials, it is seen that the petitioner got no previous case and further, there was a dispute with regard to the seizure of JCB and the CCTV Footage which had been produced by the A1 before this Court and on seeing that the JCB was available with some other place in Aadhava Kudiyruppu and it was forcibly taken from there. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner shall draw a demand draft in favour of Dean, Government Hospital, Ramanathapuram for a sum of **Rs.50,000/- (Rupees Fifty 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, Dean, Government 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, Kadaladi, 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 Court in P.K.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/-
17/03/2021

/ 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, KADALADI.
- 2.-DO-THRO'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.

COPY TO: THE DEAN, GOVERNMENT HOSPITAL, RAMANATHAPURAM

+1 CC to Mr.M.S.JEYAKARTHIK, Advocate (SR-2239[I] dated 18/03/2021)

ORDER
IN
CRL OP(MD) No.4065 of 2021
Date :17/03/2021

vsg
AE/SMA/SAR-II (22/03/2021) 3P / 7C