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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/03/2021

PRESENT

The Hon'ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.4727 of 2021

1. Vijish
2. Anish @ Anish Kumar ... Petitioners/Accused Nos.1 and 2

Vs

The State Rep. by
The Inspector of Police,
Pazhugal Police Station,
Kanyakumari District.
Crime No. 43 of 2021 ... Respondent/Complainant

For Petitioners: Mr.Herold Singh S.C.,
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.43 of 2021 on the file of the Respondent Police.

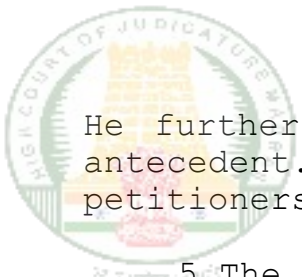
ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused Nos.1 and 2, apprehending arrest at the hands of the respondent police for the offences punishable under section 379 of I.P.C., in Crime No.43 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners and others were said to have illegally transported red soil by using Tipper Lorry. 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. 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.

7. Accordingly, each of the petitioners shall draw a demand draft in favour of Dean, Kanyakumari Government Hospital, Aasaripallam for a sum of **Rs.20,000/- (Rupees Twenty Thousand only)** without prejudice to his rights and contentions before the trial Court. The petitioners shall produce the proof of remittance / submission of Demand Draft to Dean while executing sureties. On acknowledgment of the same by the Dean, Kanyakumari Government Hospital, Asaripallam, 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 No.I, Kuzhithurai, 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:

(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.

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sd/-
29/03/2021

/ 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 INSPECTOR OF POLICE,
PAZHUGAL POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:-

THE DEAN,
KANYAKUMARI GOVERNMENT HOSPITAL,
AASARIPALLAM.

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-2683[I] dated 30/03/2021)

ORDER
IN
CRL OP(MD) No.4727 of 2021
Date :29/03/2021

VSG

TE/JC : 01/04/2021 : 3P/7C

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