



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/04/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.5146 of 2021

Pandi @ Pandian

... Petitioner/Sole Accused

Vs

State Rep. by
The Inspector of Police,
Peraiyur Police Station,
Madurai District.
Crime No. 99/2021.

... Respondent/Complainant

For Petitioner : Mr.Haroon Rasheed.D.S.,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.99 Of 2021 on the file of
the respondent Police

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of IPC and Sections 4(1)(1A) and 21(5) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.99 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 31.03.2021 at about 07.30 a.m, when the defacto complainant and his Police party were on patrolling duty, they intercepted a Tractor bearing Registration No. TN 41 V 4003 and Trailer bearing Registration No. TN 36 H 1013, driven by the petitioner. On seeing the Police, the petitioner off-loaded the sand from the Trailer and left the vehicle and ran away from the place of occurrence. On search, it was found that the petitioner was transporting one unit of river sand illegally without permission or license. The defacto complainant and his Police party seized the sand and the tractor and trailer. Hence, the complaint.



3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution. He further submitted that based on the registration certificate, the petitioner has been falsely implicated in this case. He further submitted that the allegation against the petitioner that on seeing the police party, the petitioner off-loaded the one unit of river sand and escaped from the scene of occurrence is hard to believe. Hence, he prayed for grant of anticipatory bail to the petitioner.

4.On the other hand, the learned Government Advocate(Crl.Side) appearing for the respondent police strongly opposed this petition on the ground that the vehicle was seized on the spot and on seeing the search party headed by defacto complainant, the petitioner escaped from the scene of crime.

5.Considering the unacceptable story stated in the FIR that the petitioner off-loaded the sand from the trailer and escaped from the scene of occurrence, this Court considers that the petitioner has made out a prima facie case for granting anticipatory bail to the petitioner, hence, this Court is inclined to grant anticipatory bail to the petitioner.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the Judicial Magistrate Court, Peraiyur, within a period of fifteen days from the date of receipt of a copy of this order, on his executing 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 said Magistrate 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 were breached 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]**.

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

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sd/-
22/04/2021

/ 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 COURT, PERAIYUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
PERAIYUR POLICE STATION,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.5146 of 2021
Date :22/04/2021

VSG
JM/VR/SAR IV/04.05.2021/3P/5C