



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/04/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) . No.5216 of 2021

1. Mathavan
2. Thanabalan

... Petitioners/Accused Rank

Vs

The State rep.by
The Inspector of Police,
SIPCOT Police Station,
Sivagangai District
Cr No. 46/2021.

... Respondent/Complainant

For Petitioner : M/s.Ramesh Raja.P.T.,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No. 46/2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

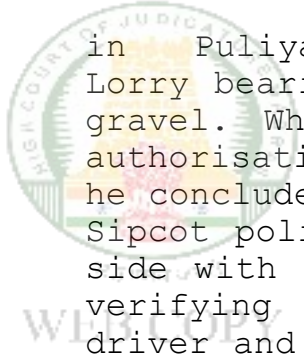
The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 511 of IPC in Crime No.46 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 29.03.2021 at about 16.15 hours, when the respondent police is on patrolling duty, the accused persons involved in illegal mining of gravel sand of two units.

3.The learned counsel for the petitioner submitted that the petitioners are innocent persons and he did not commit any offence as alleged by the prosecution.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.side) appearing for the respondent.

5.It is seen from the submissions that on 29.03.2021, at about 4.15 hours, when the defacto complainant engaged in vehicle search



in Puliyankulam-Manamadurai Road, near Puliyankulam, the Tipper Lorry bearing registration No.TN 63 AP 7340 came with two units of gravel. When enquired, the driver Madhavan has not produced any authorisation for transporting the gravel in the Lorry. Therefore, he concluded that the gravel was stolen and he took the lorry to the Sipcot police station. On the way, a lorry came from the opposite side with crushed rock (Jalli), he intercepted the lorry and after verifying the documents with the lorry driver, he sent the lorry driver and then proceeded to the Sipcot police station. The driver of the lorry bearing No.TN 63 AP 7340 stopped the lorry and escaped from the place. On suspicion he inspected the lorry and found that there was not even a drop of gravel found in the lorry. He thought that when he was engaged in checking the lorry, which came from the opposite direction, this lorry driver off loaded the gravel at some other place. Therefore, the case came to be registered under Sections 379 and 511 of IPC.

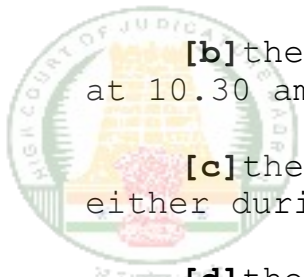
6.The learned counsel for the petitioner submitted that from the allegations made in the complaint, it is clear that it is a false case and the defacto complainant has given make believe story as a complaint. There is no iota of truth in the allegation made in the FIR. The petitioners are falsely implicated. Hence, he seeks anticipatory bail.

7.The learned Government Advocate, opposes this anticipatory bail application. However, he submits that there is no previous case pending against the petitioners.

8.As rightly pointed out by the learned counsel for the petitioners that the allegations made in the FIR against the petitioners could not have been possibly true for the reasons that during the vehicle check there may be other officials accompanying the defacto complainant. It is not possible for the lorry driver to take the lorry from that place to some other place and off load the gravel and then come back. Therefore, the story narrated by the defacto complainant in the complaint cannot be believed. In this view of the matter, this Court is inclined to grant anticipatory bail to the petitioners.

9.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Manamadurai, 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 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 respondent police daily at 10.30 am., until further orders.

[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 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 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

09/04/2021

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

ORDER

IN

CRL OP(MD) No.5216 of 2021

Date :09/04/2021