



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

Date : 01/11/2021

PRESENT

WEB COPY

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD)Nos.5557, 13203, 14310,
14887 and 16267 of 2021

CRL OP(MD)Nos.5557 of 2021

S.RAMESH ... PETITIONER / ACCUSED (RANK NOT KNOWN)

Vs

1 THE STATE REP.BY,
THE INSPECTOR OF POLICE
KALLIDAIKURICHI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.417 OF 2020) ... 1st RESPONDENT/COMPLAINANT

2 THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID WING, TIRUNELVELI DISTRICT. ... 2nd RESPONDENT / COMPLAINANT
(R2 IMPEADED AS PER ORDER OF THIS COURT
DATED 24/08/2021 IN CRL.MP(MD)NO.5216/2021
IN CRL.OP(MD)NO.5557/2021 BY BPJ)

For Petitioner : Mr.R.ANAND, Advocate.

For Respondents : Mr.T.SENTHILKUMAR,
Government Advocate (Crl. Side)

CRL OP(MD) No.13203 of 2021:

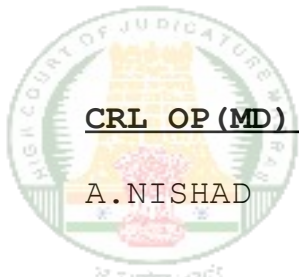
M.KUBERA SUNDAR ... PETITIONER/3rd ACCUSED

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
CBCID, TIRUNELVELI RANGE,
TIRUNELVELI DISTRICT,
TIRUNELVELI.
(CRIME NO. 417 OF 2020) ... RESPONDENT/COMPLAINANT

For Petitioner : Mr.R.ALAGIA NAMBI, Advocate

For Respondent : Mr.P.KOTTAI CHAMY,
Government Advocate (Crl. Side)



CRL OP(MD) No.14310 of 2021:

A.NISHAD

... PETITIONER/9th ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
CBCID
TIRUNELVELI RANGE,
TIRUNELVELI DISTRICT, TIRUNELVELI.
CRIME NO.417 OF 2020.

... RESPONDENT/COMPLAINANT

For Petitioner : MR.R.ALAGIA NAMBI, Advocate
For Respondent : MR.P.KOTTAI CHAMY,
Government Advocate (Crl. Side)

CRL OP(MD) No.14887 of 2021:

MANUAL GEORGE

... PETITIONER/ACCUSED NO.1

Vs

1 THE STATE REP.BY,
THE INSPECTOR OF POLICE
KALLIDAIKURICHI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.417 OF 2020)

2 THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID WING, TIRUNELVELI DISTRICT. ... RESPONDENTS/ COMPLAINANT

For Petitioner : MR.H.Arumugam, Advocate
For Respondent : MR.T.SENTHILKUMAR,
Additional Public Prosecutor

CRL OP(MD) No.16267 of 2021:

1 SEEVALAMUTHU @ KUMAR
2 P.ARIHARASUTHAN

... PETITIONER/ACCUSED NOS.10 & 11

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
CBCID, TIRUNELVELI RANGE,
TIRUNELVELI DISTRICT.
CRIME NO.417 OF 2020.

... RESPONDENT/ COMPLAINANT

For Petitioners : MR.M.M.MANIVEL PANDIAN, Advocate
For Respondent : MR.T.SENTHILKUMAR,
Additional Public Prosecutor

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

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



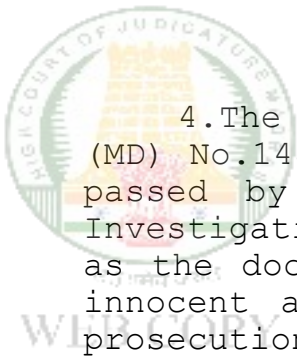
For Anticipatory bail in Crime No.417 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused apprehending arrest at the hands of the respondent police for the alleged offence punishable under Section 379 @ Sections 120(b) and 379 of IPC r/w 21(1)(IV) Mines and Mineral (Development and regulation) Act @ Sections 420, 465, 468, 471, 120(b) and 379 of IPC r/w 21(1)(IV) Mines and Mineral (Development and regulation) Act in Crime No.417 of 2020 on the file of the Inspector of Police, Kallidaikurichi Police Station, Tirunelveli District which has been transferred to CBCID (SID), Tirunelveli and re-numbered as Crime No. 02 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that one Mariselvam, the Deputy Tahsildar of Ambasamudram, has given a complaint on 03.08.2020 stating that one Manuvel George was granted with a license on 09.11.2019 for a period of five years on condition that he has to store the mines and minerals only in Survey No.843, Pottal Village, Kallidaikurichy Part-II, Tirunelveli District. However, he was granted liberty to purchase the mines and minerals from the nearby quarry being run by one Sankara Narayanan @ Sankaran in various Survey numbers. During inspection, it was found that in other survey numbers also under the guise of washing the sand, in several places ponds have been dug and the quarried sands came through digging, have been stocked in heaps just adjacent to the ponds which were dug. By using the washed sand, the ponds were filled and closed. The enquiry has further revealed that Manuvel George in the name of producing M.Sand have transported the sand unauthorizedly by using the permit chits issued for the purpose of transporting M.Sand. The over all enquiry, according to the defacto complainant reveals that the aforesaid manuvel George is responsible for the aforesaid activities which ultimately resulted in the loss to the exchequer of the State. Hence the complaint.

3.The learned counsel appearing for the petitioners in Crl.O.P (MD) Nos.5557, 13205 and 14310 of 2021 submitted that based on the confession statement of the co-accused, these petitioners have been implicated as accused in this case. He further submitted that the petitioners are innocents and they have been falsely implicated in this case. However, inorder to show their *bona fide*, the petitioners have come forward to pay a sum of Rs.10,00,000/- each to the credit of Crime No.2 of 2021 before the Judicial Magistrate No.I, Tirunelveli.



4.The learned counsel appearing for the petitioner in Crl.O.P (MD) No.14887 of 2021 submitted that pursuant to the interim order passed by this Court, this petitioner has appeared before the Investigating Officer and has surrendered his mobile phone as well as the documents. He further submitted that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution, but he has been falsely implicated in this case. However, in order to show his *bona fide*, the petitioner has come forward to pay a sum of Rs.15,00,000/- to the credit of Crime No.2 of 2021 before the Judicial Magistrate No.I, Tirunelveli.

5.The learned counsel appearing for the petitioners in Crl.O.P (MD)No.16267 of 2021 submitted that they are only the vice presidents of the village, where the incident had occurred and they have nothing to do with the offence.

6.The learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioners along with other accused have illegally taken the sand from the water bodies and transported the same to the State of Kerala. He further submitted the Revenue Divisional Officer has conducted an enquiry and imposed a penalty as against the accused and the investigation is in progress.

7. This Court is of the view that without the knowledge of the Village Administrative Officer, Village Assistant, Panchayat President, Vice President and Councillor, the alleged offence could not have been committed by the accused persons herein and therefore, this Court is not inclined to grant anticipatory bail to the petitioners in Crl.O.P(MD) No.16267 of 2021.

8.At this point of time, the learned counsel for the petitioners in Crl.O.P(MD) No. 16267 of 2021 would submit that in order to show their *bona fide*, the petitioners have come forward to pay a sum of Rs.5,00,000/- each to the credit of Crime No.2 of 2021 before the Judicial Magistrate No.I, Tirunelveli.

9.On perusal of the records, it is seen that considering the gravity of the offence committed by the accused with the connivance of the some officials of Geology and Mining Department, Revenue Department and also Agriculture Department, the Division Bench of this Court vide order dated 20.07.2021 passed in W.P(MD) No.11057 & 15312 of 2020 had transferred the investigation from the file of the respondent police to CBCID. Accordingly, the files have been transferred to the CBCID only in the month of August, 2021 and re-numbered as Crime No.02 of 2021.

10.The Deputy Superintendent of Police, CBCID, Tirunelveli, who is investigating in the matter appeared before this Court and submitted that the petitioners in Crl.O.P(MD) Nos.5557, 13205, 14310 and 16267 of 2021 are partners and they have entered into MOU for



conducting a quarry operation and obtained permission for storing M-Sand. They have also obtained necessary permission from the Department of Geology and Mining. Under such guise, they have illegally taken sand from the nearby water bodies and illegally transported the same to the State of Kerala.

WEB COPY

11.The Deputy superintendent of Police further submitted that this Court had already granted interim anticipatory bail to the petitioners and directed them to appear before the investigating officer. She is in charge of four wings and the said case has been transferred only recently to CBCID Wing, Tirunelveli District and it requires some more reasonable time for her to complete the investigation. However, she submitted that the first accused namely Manuvel Geroge has appeared before her and surrendered his mobile phone as well as the documents and co-operated for the investigation.

12.Considering the facts and circumstance of the case and the conduct of the petitioners and their willingness to deposit some amount, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, these Criminal Original Petitions are allowed on condition that **the petitioners in Crl.O.P(MD) Nos.5557 of 2021, 13203 and 14310 of 2021 shall deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) each. The petitioner in Crl.O.P(MD) Nos.14887 of 2021 shall deposit a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) and the petitioners in Crl.O.P(MD) No.16267 of 2021 shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) each to the credit of Crime No.2 of 2021 before the Judicial Magistrate No.I, Tirunelveli,** without prejudice to their rights and contentions before the trial Court, within a period of four weeks from the date of receipt of copy of this order

13.On such deposits, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Tirunelveli, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Judge may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioners in Crl.O.P(MD) Nos.5557, 13203, 14310 of 2021 shall report before the Deputy Superintendent of Police, CBCID (SID), Madurai, daily at 10.30 am., for a period of 30 days and thereafter, once in a week i.e., on every Monday at 10.30 a.m., for a period of 6 weeks and thereafter, as and when required for interrogation.



[c] The petitioner in Crl.O.P(MD) No.14887 of 2021 shall report before the Deputy Superintendent of Police, CBCID(SID), Madurai, as and when required for interrogation.

[d] The petitioners in Crl.O.P(MD) No.16267 of 2021 shall report before the Deputy Superintendent of Police, CBCID, (SID), Madurai, daily at 10.30 am., for a period of 30 days and thereafter, as and when required for interrogation.

[e] the petitioners shall not tamper with the evidence or witness either during investigation or trial.

[f] the petitioners shall not abscond either during the investigation or trial.

[g] 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]**.

[h] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
01/11/2021

/ 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,
TIRUNELVELI.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

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



3. THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID WING, TIRUNELVELI DISTRICT.
4. THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID(SID), MADURAI.
5. THE INSPECTOR OF POLICE,
KALLIDAIKURICHI POLICE STATION,
TIRUNELVELI DISTRICT.
6. THE INSPECTOR OF POLICE,
CBCID, TIRUNELVELI RANGE,
TIRUNELVELI DISTRICT.
7. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.M.M.MANIVEL PANDIAN, Advocate SR.No.7813.

ORDER
IN
CRL OP(MD)Nos.5557, 13203, 14310,
14887 and 16267 of 2021
Date :01/11/2021

cp
USK/VR/SAR-IV/(09.12.2021) 7P-9C