



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : **28/04/2021**

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PRESENT

The Hon`ble **Mr.Justice G.CHANDRASEKHARAN**

CRL OP(MD).No.5894 of 2021

Umesh ... Petitioner/Accused No.5

Vs

State Rep. by
The Inspector of Police,
Kallal Police Station,
Sivagangai District.
Crime No.71/2021. ... Respondent/Complainant

For Petitioner : Mr.Balaji.A,
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.71 of 2021 on the file of the respondent Police

ORDER: The Court made the following order :-

Apprehending arrest at the hands of the respondent police for the alleged offences punishable under Section 379 IPC and Section 21 (4) of the Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.71 of 2021 on the file of the respondent police, the petitioner has come forward with this petition seeking anticipatory bail.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent police.

3.It is seen from the submissions made that the petitioner and other accused said to have illegally taken gravel sand from the patta land of one Manimuthur in survey Nos.130/1, 2, 3 by using JCB. Hence, the complaint.



4.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and the petitioner has been falsely implicated in the present case and hence, he seeks anticipatory bail. He would further submit that the co-accused have been arrested and were granted bail in Crl.O.P.(MD)No.6009 of 2021, today (28.04.2021).

5.The learned Government Advocate (criminal side), on instructions, concedes that the co-accused have been arrested and remanded to judicial custody. Today, in Crl.O.P.(MD)No.6009 of 2021, the co-accused have been granted bail.

6.Considering the facts and circumstances of the case that the accused said to have taken gravel sand from patta land and the fact that the co-accused have been granted bail, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, 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 learned Judicial Magistrate, Karaikudi, and 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 learned Magistrate concerned and on further conditions 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 cards or Bank pass Books to ensure their identity;

(b)the petitioner shall report before the respondent police, daily, at 10.30 a.m., until further orders;

(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/-
28/04/2021

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

ORDER
IN
CRL OP(MD) No.5894 of 2021
Date :28/04/2021

SM
JM/VR/SAR I/06.05.2021/3P/5C