



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 02/08/2021

WEB COPY

PRESENT

**The Hon`ble Mr.Justice B.PUGALENDHI**

CRL OP(MD)No.6262 of 2021

1. Rajeswaran

2. Dinesh Kumar ... Petitioners/Accused Rank not known

Vs

State Rep by  
The Inspector of Police,  
Thirupalaikudi Police Station,  
Ramanathapuram, District.  
Crime No. 76 of 2021) ... Respondent/Complainant

For Petitioner : Mr.S.Vidhya Sagar,Advocate

For Respondent : Mr.T.Senthil Kumar,  
Government Advocate(Crl.Side)

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

PRAYER :-

For Anticipatory bail in crime no.76 of 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 Section 379 IPC and Section 21(4) of the Mines and Minerals(Development & Regulation)Act, 1957 in Crime No.76 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant/Sub Inspector of Police, on secret information, while conducting vehicle check up in Kundathur to Karrupur road on 19.04.2021, inspected one tipper lorry bearing registration No.TN 65 W 1784 and one JCB bearing registration No.TN 32 P 9973 and found that the above vehicles have indulged in illegal transportation of sand. On seeing the Police party, the drivers of the vehicles



abandoned the same and ran away from the place of occurrence. Consequently, the Sub Inspector of Police seized the vehicles and lodged complaint and the same was registered in crime No.76 of 2021.

3.The learned counsel for the petitioners submits that the petitioners are drivers of the vehicles and on the instructions of the owner of the vehicles only they have acted, without knowing the consequences of the same. However, they have no previous case.

4.The learned Government Advocate(Crl.side) appearing for the respondent police, on instructions, submits that the petitioners are the drivers of the vehicles i.e., tipper lorry bearing registration No.TN 65 W 1784 and JCB bearing registration No.TN 32 P 9973. There is no bad antecedent against them.

5.Considering the submission that the petitioners are not indulged in any other similar offence and they being the drivers of the vehicle, this Court is inclined to grant anticipatory bail to the petitioners on condition that the petitioners shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only)each to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate No.I, Ramanathapuram.

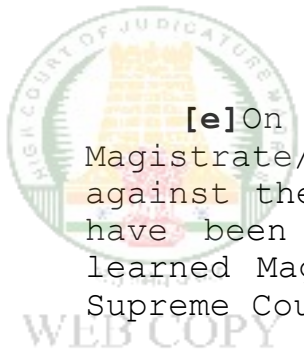
6.On depositing the above said amount, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Ramanathapuram on condition that the 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 conditions 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 the 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]**.

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

7.It is needless to say that any tool or instrument or vehicle used for illegal quarrying/ transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals(Development & Regulation) Act, 1957 and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act, 1957, is liable to be confiscated under Section 21(4-A) of the Act.

8.Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities have not invoked the provision of 21 (4-A) of the Mines and Minerals(Development & Regulation) Act, 1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasised the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals(Development & Regulation) Act, 1957 and as per the guidelines issued in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020.

sd/-  
02/08/2021

/ TRUE COPY /

/ /2021  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

GNS

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.

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



TO

1 THE JUDICIAL MAGISTRATE,  
NO.1, RAMANATHAPURAM

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE  
RAMANATHAPURAM DISTRICT

3 THE INSPECTOR OF POLICE  
THIRUPALAIKUDI POLICE STATION,  
RAMANATHAPURAM, DISTRICT

4 THE ADDITIONAL PUBLIC PROSECUTOR  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

COPY TO  
THE OFFICER-IN-CHARGE  
CHIEF MINISTER PUBLIC RELIEF FUND  
GOVT.OF TAMIL NADU  
IOB SECRETARIAT BRANCH  
CHENNAI-9

+1. CC to M/S.JEYAKARTHIK.M.S. Advocate SR.No.5045

ORDER  
IN  
CRL OP(MD) No.6262 of 2021  
Date :02/08/2021

PKP/JM/SAR1 09/08/2021:P4:7C