



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/08/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.6791 of 2021

K.Somasundharam,

... Petitioner/2nd Accused

Vs

The state rep by
The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District.
(Crime No.136 of 2021)

... Respondent/Complainant

For Petitioner : Mr.Karunakaran.K.M,
Advocate.

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

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

PRAYER :-

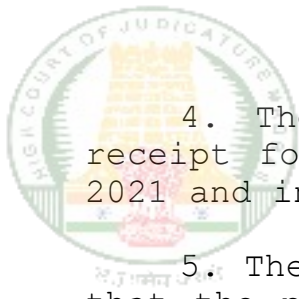
For anticipatory bail in Cr.no.136 of 2021 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 430 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.136 of 2021 seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and other accused had illegally transported two and a half units of river sand by using lorry. Hence, the complaint.

3. This Court by earlier order dated 20.05.2021, granted interim anticipatory bail to the petitioner and directed him to pay a sum of Rs.20,000/- to the credit of Crime No.136 of 2021 before the Judicial Magistrate, Thiruvidadaimaruthur, Thanjavur District.



4. The learned counsel for the petitioner has produced the receipt for the sum he has paid to the credit of Crime No.136 of 2021 and inclined to pay some more amount to show his *bona fide*.

5. The learned Government Advocate (Criminal Side) would submit that the petitioner had illegally transported two and a half units of river sand without valid permit, he has two previous cases of similar nature and strongly opposed for grant of anticipatory bail.

6. Since the petitioner has complied with the direction issued by this Court, this Court is inclined to grant anticipatory bail to the petitioner. Hence, this petition is allowed and the petitioner is granted anticipatory bail on condition that the petitioner shall pay a sum of Rs.20,000/- (Rupees Twenty Thousand only) 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 his rights and contentions before the trial Court and produce the receipt/acknowledgment before the Judicial Magistrate, Thiruvidaimaruthur, Thanjavur District.

7. On production of such receipt/acknowledgment, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate, Thiruvidaimaruthur, Thanjavur District on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum to the satisfaction of the 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 card or Bank pass Book to ensure their identity.

[b]the petitioner shall report before respondent police daily at 10.30 am. and 05.00 pm., until further orders.

[c]the petitioner shall not tamper with the 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].



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

8.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.

9.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 emphasized the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police, Forest, 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. 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/-

11/08/2021

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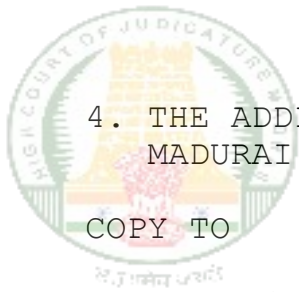
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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,
THIRUVIDAIMARUTHUR, THANJAVUR DISTRICT.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE,
THIRUNEELAKUDI POLICE STATION,
THANJAVUR DISTRICT.

<https://hcservices.hcma.gov.in/CaseDetails>



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

COPY TO

THE OFFICER INCHARGE,
CHIEF MINISTER PUBLIC RELIEF FUND,
SECRETARIAT,
CHENNAI-9

ORDER

IN

CRL OP(MD) No.6791 of 2021

Date :11/08/2021

GC/JM/SAR-2/19/08/2021/4P/6C