



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/08/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.6879 of 2021

V.Durai

... Petitioner/Sole Accused

Vs

The State Represented by
The Inspector of Police,
Ammamet Police Station,
Thanjavur District.
Cr.No.173 of 2021.

... Respondent/Complainant

For Petitioner : Mr.B.Senthilnathan,
Advocate.

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

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

PRAYER :-

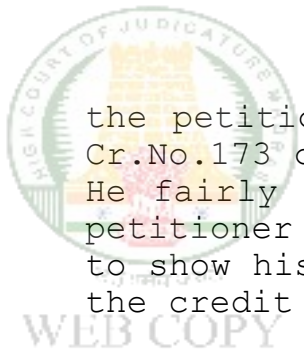
Mines and Minerals Act for anticipatory bail in cr. NO. 173 of 2021 on the file of the respondent police

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 Section 379 IPC and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.173 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner has illegally transported three units of sand by using lorry bearing registration No.TN 22 Q 3495. Therefore, the present case came to be registered.

3.The learned counsel for the petitioner submitted that this Court by an order dated 20.05.2021 granted interim anticipatory bail to the petitioner for a period of two weeks with a condition that



the petitioner shall deposit a sum of Rs.25,000/- to the credit of Cr.No.173 of 2021 before the learned Judicial Magistrate, Papanasam. He fairly submitted that due to prevailing pandemic situation, the petitioner could not arrange the said amount. Now the petitioner, to show his bonofide, is prepared to deposit a sum of Rs.20,000/- to the credit of the Chief Minister's Public Relief Fund.

4.The learned Government Advocate(Crl.side) appearing for the respondent police submitted that the petitioner is the driver-cum-owner and he has no previous case pending against him.

5.Considering the nature of offence and the fact that the petitioner has not indulged in any other offence, 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, Papanasam.

6.On depositing the above said amount, 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 learned Judicial Magistrate, Papanasam, on condition that the petitioner shall execute 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 card or Bank pass Book to ensure their identity.

[b]the petitioner shall report before respondent police daily at 10.30 am., 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]**.

[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/-

03/08/2021

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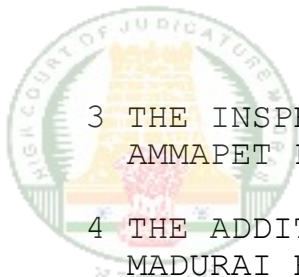
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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,
PAPANASAM.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THANJAVUR DISTRICT AT KUMBAKONAM.



3 THE INSPECTOR OF POLICE,
AMMAPET POLICE STATION, THANJAVUR DISTRICT .

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

WEB COPY

Copy to:
THE OFFICER INCHARGE,
CHIEF MINISTER PUBLIC RELIEF FUND,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT BRANCH,
CHENNAI - 09.

ORDER

IN

CRL OP(MD) No.6879 of 2021

Date :03/08/2021

SS/JC/SAR-I/09.08.2021 : 4P/6C