



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.6923 of 2021

1.Arjunan @ Govindaraj
2.Muthukumaran

... Petitioners/Accused No.1 & 2

Vs

The State rep by
The Sub Inspector of Police,
Karaiyur Police Station,
Pudukkottai District
Cr. No. 52 of 2021.

... Respondent/Complainant

For Petitioner : M/s.Ganapathi Subramanian.P,
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. 52 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 r/w Section 21(1) of the Tamil Nadu Mines and Mineral (Development and Regulation) Act in Crime No.52 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the petitioners have illegally transported two units of sand by using Tipper Lorry bearing registration No.TN-28-AA-1414. Therefore, the present case came to be registered.



3.The learned counsel for the petitioners submitted that this Court by an order, dated 20.05.2021 granted interim anticipatory bail for a period of two months with a condition that the petitioners shall deposit a sum of Rs.20,000/- each to the credit of crime No.52 of 2021 before the learned District Munsif cum Judicial Magistrate, Illupur and however, Judicial Magistrate concerned was not available and therefore, the petitioners could not comply with the conditional order of this Court. However, now the petitioners are prepared to deposit a sum of Rs.30,000/- each 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 there is no previous case pending against the petitioners.

5.Considering the submission that the petitioners have not involved in any other offences, this Court is inclined to grant anticipatory bail to the petitioners on condition that the petitioners shall pay a sum of Rs.30,000/- (Rupees Thirty 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 District Munsif cum Judicial Magistrate, Illuppur.

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 District Munsif cum Judicial Magistrate, Illuppur, 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 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 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/-
03/08/2021

/ 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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, ILLUPUR.

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

3 THE SUB INSPECTOR OF POLICE
KARAIYUR POLICE STATION,
PUDUKKOTTAI 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

ORDER

IN

CRL OP(MD) No.6923 of 2021

Date :03/08/2021

PKP/JM/SAR-3/09/08/2021 :P4 : 6C