



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 23/06/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.7852 of 2021

1. Sebasthiyan Arockiyam
2. Balasubramani
3. Xavier

... Petitioners/Accused No.3 to 5
Vs

State Rep.by
The Inspector of Police,
Inamkulathur Police Station,
Trichy District.
(Crime No.176/2021)

... Respondent/Complainant

For Petitioners: Mr.A.Thiyagarajan,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :- For anticipatory bail in crime No.176 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A3 to A5, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 of IPC and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.176 of 2021, seek anticipatory bail.

2.The case of the prosecution is that on 12.06.2021, the accused in this case said to have removed red sand in Thopatti Village using Tipper Lorries bearing Registration Nos.TN-48-BC-0059 and TN-12-AC-4261 illegally without proper license. Therefore, this case came to be registered.

3.The learned counsel for the petitioners submitted that the sand was removed from the second petitioner's own patta land. He further submitted that A-1 and A-2 were already arrested and released on bail by the Principal District and Sessions Judge, Trichy in Cr.M.P.No.1960 of 2021, dated 17.06.2021. Therefore, he seeks anticipatory bail to the petitioners.



4.The learned Government Advocate (Crl.side) for the respondent strongly opposed this petition on the ground that investigation in this case is not completed. He fairly conceded that the red sand was removed from the patta land.

5.Taking note of the facts and circumstances of the case and the fact that the red sand was said to have removed from the second petitioner's patta land and the fact that A-1 and A-2 were already arrested and released on bail and also the fact that the material witnesses are the police officials, this Court is inclined to grant anticipatory bail to the petitioners with conditions.

6.Accordingly, 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 Court No.V, Trichy, 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 condition that:

i)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;

ii)each of the petitioners shall deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** as non-refundable deposit to the credit of **Coimbatore Advocate Clerk Welfare Association, District Court Branch, Coimbatore (SB Account No.170801000018467, IFSC Code: IOBA0001708)**, without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties.

iii)the petitioners shall report before the respondent police daily at 10.30 am., until further orders.

iv)the petitioners shall not tamper with evidence or witness.

v)the petitioners shall not abscond during trial.

vi)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].



vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
23/06/2021

/ TRUE COPY /

WEB COPY

/ /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 NO.V, TRICHY.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
INAMKULATHUR POLICE STATION,
TRICHY DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER INCHARGE,
COIMBATORE ADVOCATE CLERK WELFARE ASSOCIATION,
DISTRICT COURT BRANCH, COIMBATORE.

ORDER
IN
CRL OP(MD) No.7852 of 2021
Date :23/06/2021

SJI
MS/VR/SAR-4/29.06.2021/3P.6C