



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

Reserved on	Pronounced on
24.06.2021	30.06.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.7905 of 2021

Albert

... Petitioner/Accused No.1

Vs

State Represented by
The Inspector of Police,
Kallal Police Station,
Sivagangai District
Crime No.119/2021.

... Respondent/Complainant

For Petitioner : Mr.Balaji.A,
Advocate.

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

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

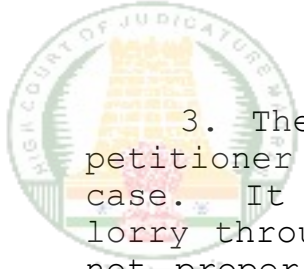
PRAYER :-

For Anticipatory Bail in Crime No. 119 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1, apprehending arrest at the hands of the respondent police for the alleged offence punishable under section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 I.P.C., in Cr.No.119 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 30.05.2021, when the defacto complainant got information that some persons are removing sand near Purandi Manimutharu, she visited along with her assistant. The lorry bearing Registration No.TN-63-BE-0740 was used for removing the sand. Five sacks of sand were loaded and 50 sacks of sand were get ready for loading. On seeing the defacto complainant and her assistant, the persons engaged in loading the sand had escaped. Therefore, this case came to be registered.



3. The learned Counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. It is further submitted that the petitioner purchased this lorry through finance offered by Indusind Bank. Since the due was not properly paid, the lorry was taken possession by the Indusind Bank even before the date of alleged occurrence. The petitioner and his lorry are falsely implicated in this case. Therefore, he seeks anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the State opposed this petition. However, as instructed by this Court, he filed a report through the Inspector of Police.

5. It is seen from the report filed by the Inspector of Police that the number plate of the lorry bearing Registration No.TN-63-BE-0740 was used in a lorry bearing Registration No.TN-63-BE-8106, for the illegal purpose of removing sand. In effect, the case of the prosecution is that the lorry bearing Registration No.TN-63-BE-8106 was used for illegal purpose using the Registration No.TN-63-BE-0740. It is also seen from the letter given by the Indusind Bank that the lorry bearing Registration No. TN-63-BE-0740 was taken possession for not paying the required due. Therefore, it is highly doubtful, from the submissions made and the documents produced that the lorry bearing Registration No. TN-63-BE-0740, which belonged to the petitioner, was involved in the alleged offence. In such view of the matter, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the Judicial Magistrate Court, Karaikudi, within a period of fifteen days from the date of receipt of a copy of this order, on his executing 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 said Magistrate and on further condition 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 the respondent police daily at 10.30 a.m., 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-
30/06/2021

/ TRUE COPY /

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

SSL

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, KARAIKUDI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
3. THE INSPECTOR OF POLICE,
KALLAL POLICE STATION,
SIVAGANGAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.7905 of 2021
Date : 30/06/2021

VB/VR/SAR.I/02.07.2021/3P/5C