



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/06/2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.8447 of 2021

Muthurasu

... Petitioner/Accused
(Rank not known)

Vs

The State Rep. by
The Inspector of Police,
Thiruvonam Police Station,
Thanjavur District
Crime No. not known of 2021.

... Respondent/Complainant

For Petitioner : Mr.Ebenezer.T.A.,
Advocate.

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

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

PRAYER :-

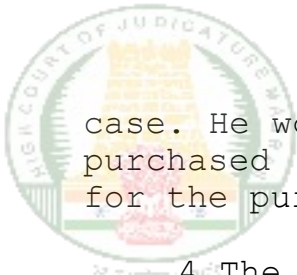
For Anticipatory Bail in Crime no. Not known of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 of IPC and Section 21(1) of Mines and Minerals Act (Development and Regulation) Act, 1957 in Crime No.413 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 18.06.2021, the defacto complainant found river sand and red sand near a building, which is being newly constructed. On enquiry, the defacto complainant found that a building was constructed by one Muthuraj, Government Teacher. He informed that the sand was brought by one Muthukumar for the purpose of construction of the building. Therefore, this case came to be registered.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this



case. He would further submit that the petitioner has not personally purchased the sand. The sand was purchased through the contractor for the purpose of building construction.

4. The learned Government Advocate (Crl. Side) submitted that the sand was accumulated for the purpose of building construction. However, he says that the petitioner has not shown any permission.

5. As narrated in the FIR and the submission made by the learned counsel for the petitioner and the learned Government Advocate, it is made clear that the sand was accumulated for the purpose of building construction and the petitioner has not directly purchased the sand and it was purchased through the contractor.

6. Considering the facts and circumstances of the case, the fact that the sand was accumulated for the purpose of building construction and the fact that material witnesses are official witnesses in this case and there is no commercial purpose involved in this case, this Court is inclined to grant anticipatory bail to the petitioner with conditions.

7. Accordingly, 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, Orathanadu, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of Advocate Clerk's Welfare Association, Madurai-625 023 (Indian Bank Savings Account No.496039124, IFSC Code: IDIB000H040), within a period of two weeks without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties;

[c] the petitioner shall report before respondent police, daily at 10.30 a.m., until further orders;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;



[f] 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]**; and

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

sd/-

28/06/2021

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/ /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, ORATHANADU.
2. DO-THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE,
THIRUVONAM POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:-

THE OFFICER INCHARGE,
ADVOCATE CLERK'S ASSOCIATION,
MADURAI.

ORDER

IN

CRL OP(MD) No.8447 of 2021

Date :28/06/2021