



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 01.07.2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.8660 of 2021

1.Ganesan  
2.Shanthi  
3.Chidambaram

... Petitioners/Accused 1 to 3

Vs

The State Represented by its,  
The Inspector of Police,  
Rajathani Police Station,  
Theni District.  
Crime No.180 of 2021

... Respondent/Complainant

For Petitioners : Mr.P.Senguttuarasan

For Respondent : Mr.M.Muthumanikkam,  
Counsel for Government of TamilNadu  
(Criminal Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 180 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 Sections 379 of IPC and Section 21(4) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.180 of 2021, seek anticipatory bail.

2.The case of the prosecution is that on 28.06.2021, when the police party were engaged on duty to prevent sand theft and other crimes, they found a Tractor - Trailor bearing registration No.TN 60 H 3117 near Theppambatti Water Tank. On seeing the police, the



occupants of the vehicle escaped. On search, the Police found one unit of odai sand. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they did not commit any offence as alleged by the prosecution. Therefore, he seeks anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor opposed this petition on the ground that investigation is still pending. He further submitted that A3/third petitioner has one previous case, similar in nature. A1/first petitioner has one previous case pending, under other act.

5.Taking note of the fact that the sand involved in this case is odai sand, the fact that the sand and vehicle were recovered by the Police, this Court is inclined to grant anticipatory bail to the first and second petitioners. However, since A3/third petitioner, has one similar case pending, this Court is not inclined to grant anticipatory bail to him. This Criminal Original Petition is allowed in part.

6.Accordingly, the first and second 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, Aundipatti on condition that the first and second 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:

[a]the first and second 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 first and second petitioners shall report before respondent police daily at 10.30 am., until further orders.

[c]the first and second petitioners shall not tamper with evidence or witness either during investigation or trial.

[d]the first and second 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 first and second petitioners in accordance with law as if the conditions have been imposed and the first and second 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.

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Sd/-  
01/07/2021

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/ /2021

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

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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,  
AUNDIPATTI.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
THENI DISTRICT.
- 3.THE INSPECTOR OF POLICE,  
RAJATHANI POLICE STATION,  
THENI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

ORDER  
IN  
CRL OP (MD) No.8660 of 2021  
Date : 01.07.2021

VB/MNR/SAR.V/06.07.2021/3P/5C