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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/07/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.8664 of 2021

M.Sivanraj

... Petitioner/Accused No.2

Vs

The State rep.by,
The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
Crime No.1023 of 2020.

... Respondent/Complainant

For Petitioner : Mr.K.Sivabalan,
Advocate.

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

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

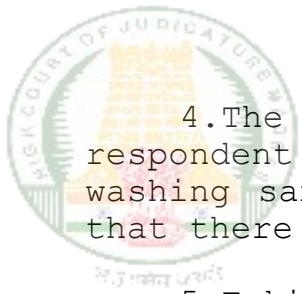
PRAYER :-For Anticipatory Bail in Crime No.1023 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 379 IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.1023 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that on 04.09.2020 at about 09.00 am., the respondent police found at Kovilpatti check post, a lorry bearing registration No.TN 47 AU 6300 with five units of sand. The lorry driver was enquired and he did not possess any permit or licence for transporting the sand. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and the transported sand was washing sand and therefore, he seeks anticipatory bail to the petitioner.



4.The learned Government Advocate(Crl.side) appearing for the respondent police conceded that the sand involved in this case is washing sand and it was filtered from red sand. He also submitted that there is no previous case pending against the petitioner.

5.Taking note of the fact that the sand involved in this case is washing sand and the fact that sand and vehicle had been recovered and also the fact that material witnesses are official witnesses, this Court is inclined to grant anticipatory bail to the petitioner.

6.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 No.II, Kovilpatti, Thoothukudi District, 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.25,000/- (Rupees Twenty Five Thousand only) to the credit of Coimbatore Advocate Clerk Welfare Association, District Court Branch, Coimbatore (SB Account No.170801000018467, IFSC Code: IOBA0001708), without prejudice to his 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 am., 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]**.



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

sd/-

27/07/2021

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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.II,
KOVILPATTI, THOOTHUKUDI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
KOVILPATTI WEST POLICE STATION,
THOOTHUKUDI 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.

+1 CC to Mr.K.SIVABALAN, Advocate. (SR-4857[I] dated 27/07/2021)

ORDER

IN

CRL OP(MD) No.8664 of 2021

Date :27/07/2021

GNS

MK/JC/SAR.I/02.08.2021/3P/6C