



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

Date : 05.07.2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.8709 of 2021

1.K.Eswaran
2.C.Muthusadiyandi ... Petitioners/Accused Nos.1 and 2

Vs

State Through,
The Sub-Inspector of Police,
Palanichettipatti Police Station,
Theni District.
Crime No.315 of 2021 ... Respondent/Defacto Complainant

For Petitioners : Mr.A.Haja Mohideen
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.315 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 Sections 21(1) and 21(4) of Mines and Minerals (Development and Regulation) Act in Crime No.315 of 2021, seek anticipatory bail.

2.The case of the prosecution is that on 24.06.2021, at about 12.25 am, the police party found near Kottaipatti Vilaku, a tipper lorry bearing Registration No.TN 63 AZ 1022. They stopped the lorry and found that the lorry contained sand, which was transported without any permission. The driver of the lorry escaped from there. 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 Government Advocate (Criminal Side) opposed this petition on the ground that the sand involved in this case is red



sand. It is further submitted that the sand was transported for agricultural purpose.

5.Considering the fact that the sand involved in this case is red sand and the fact that all the material witnesses are official witnesses in this case, this Court is inclined to grant anticipatory bail to the petitioners.

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, Theni 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:

[a]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.

[b] the petitioners are directed to deposit a sum of Rs.10,000/- (Rupees Ten 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 petitioners shall report before respondent police daily at 10.30 am., until further orders.

[d]the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e]the petitioners 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 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].

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

sd/-

05/07/2021

/ TRUE 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, THENI.
- 2.-DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 3.THE SUB-INSPECTOR OF POLICE,
PALANICHETTIPATTI POLICE STATION,
THENI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
ADVOCATE CLERK'S WELFARE ASSOCIATION,
MADURAI-625 023.

ORDER
IN
CRL OP(MD) No.8709 of 2021
Date :05/07/2021

mbi
AE/MNR/SAR-1/08.07.2021/3P/6C