



WEB COPY

CRL OP(MD). No.8887 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/08/2021

PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.8887 of 2021

1. M.Antony
2. T.M.Burton Hopkins
3. C.Inbaraj
4. A.Albin
5. T.Yesudhas

... Petitioners/Accused 1 to 5

Vs

The State Rep. by,
The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
(Crime.No.358/2021).

... Respondent/Complainant

For Petitioners : Mr.S.C.Herold Singh,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No. 358 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under Section 379 of I.P.C., and Section 21(1) of Mines and Minerals (Development and Regulation) Act, in Crime No.358 of 2021 on the file of the respondent police, seek anticipatory bail.



2.The case of the prosecution is that on 26.06.2021 at about 11.00 am., when the defacto complainant was on his inspection found that the petitioners were doing illegal quarrying in Survey No.441/4C2 and Survey No.441/10 by removing the rocks using the machines fitted in the vehicle bearing Registration Nos.TN 45 AM 1441 and TN 38 Z 879. Hence, the present complaint.

3.The learned counsel for the petitioners submitted that the petitioners 1 and 2 are the owners of the property, the petitioners 3 and 4 are the drivers and the fifth petitioner is the owner of the vehicle. The petitioners 1 and 2 donated the property for constructing a overhead tank. The District Collector, Kanyakumari District had granted permission vide proceedings No.A5/1651/2020 dated 19.02.2021 to construct overhead tank. In order to construct overhead tank, the petitioners are said to have removed the rocks found in the land.

4.The learned Government Advocate (Crl. Side) submitted that the petitioners removed rocks without any valid permission. Hence, he prayed for dismissal of this petition.

5.As per the allegations of the complaint, there is no illegal transportation of minerals. Considering the nature of offence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

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 No.I, Kuzhithurai, 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 learned Magistrate concerned and on further conditions 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 Aadhaar card or bank pass book to ensure their identity;

[b]the petitioners shall report before the respondent police as and when required for interrogation;

[c]the petitioners shall not tamper with evidence or witness either during investigation or trial;

[d]the 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 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]**;

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

sd/-
03/08/2021

/ 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 NO.I,
KUZHITHURAI.
 2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI
DISTRICT AT NAGERCOIL.
 3. THE INSPECTOR OF POLICE,
ARUMANAI POLICE STATION,
KANYAKUMARI DISTRICT.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- +1. CC to Mr.HEROLD SINGH.S.C. Advocate SR.No.5062, Dt 04.08.2021.

ORDER IN
CRL OP(MD) No.8887 of 2021
Date :03/08/2021

ias

USK/PN/SAR-III : 18/08/2021 : 3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>