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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/07/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.9117 of 2021

Thanasekar ... Petitioner/Accused

Vs

State rep.by
The Inspector of Police,
Eppodumvendran Police Station,
Tuticorin District.
Crime No. 83/2021. ... Respondent/Complainant

For Petitioner : Mr.V.S.Kishok Kumar,
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.83 of 2021 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 Sections 379, 188 & 269 IPC and Section 21(1) of the Mines and Minerals (Development & Regulation)Act, 1957 in Crime No.83 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 01.06.2021, at about 08.30 am., Police party on prior information, were engaged in preventing offences relating to mines and minerals. They found in the Melaseithalai Government Oodai, the accused was loading sand from the Oodai in a tractor bearing registration No.TN63B4091. On seeing the Police party, the driver escaped leaving the tractor. Investigation revealed that the name of the driver is Thanasekar, who is the petitioner herein. One unit of sand was found in the tractor. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. The sand was only removed from Oodai for agriculture purpose. He further submitted that this case was registered under

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Section 188 IPC and the respondent Police is not empowered to register case under Section 188 IPC. Therefore, he seeks anticipatory bail to the petitioner.

4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is pending. It is his further submission that the sand was removed from Government Oodai.

5.It is seen that the petitioner had illegally removed one unit of sand from Oodai, which is a channel that brings water to water body. Continuous removal of sand from Oodai will obliterate it and cause stoppage of water to the water body, which will ultimately affect the public.

6.The learned counsel for the petitioner submitted that respondent Police is not empowered to register case under Section 188 IPC. Investigation in this case is in preliminary stage and this case is registered under other Sections, which are cognizable in nature. The Police is empowered to register case under Sections 379 & 269 IPC and Section 21(1) of the Mines and Minerals (Development & Regulation)Act, 1957. Taking note of all these factors, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this criminal original petition is dismissed.

sd/-
09/07/2021

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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 Inspector of Police,
Eppodumvendran Police Station, Tuticorin District.

2.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

ORDER IN
CRL OP(MD) No.9117 of 2021
Date :09/07/2021

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