



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/07/2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.9347 of 2021

1. Pandiarajan @ Pandi
2. Alagumari

... Petitioners/Accused No.1&2

Vs

The State Rep. by,
The Inspector of Police,
Usilampatty Town Police Station,
Madurai District.
(Crime No. 327 of 2021).

... Respondent/Complainant

For Petitioners : M/s.Mithun Chakravarthy.A,
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. 327 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 Section 379 IPC and Section 21(5) of the Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.327 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant, who is the Village Administrative Officer of Usilampatti Group, got an information on 07.07.2021 at about 02.00 pm., that sand was illegally taken by using JCB. Immediately, he along with his Assistant, Visited the place on the east of Masanam Temple, Usilampatty and found the accused had been taking sand by using JCB bearing registration No.TN 59 BR 4668. On seeing them, they



escaped with JCB and off-loaded the sand in the land of one Venkatesan. 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. It is his further submission that there is no vehicle or sand seized and JCB cannot be driven fast. The allegation made in FIR is false. 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 not completed. It is his further submission that the second petitioner has one similar previous case pending against him.

5.Considering the nature of the allegations in this case, the fact that JCB is not recovered and the suspicion raised by the learned counsel for the petitioners with regard to the allegation that the accused escaped with JCB and off-loaded the sand in a land of one Venkatesan is not appealing to right sense, this Court is inclined to grant anticipatory bail to the first petitioner alone. So far as the second petitioner is concerned, he has one similar previous case pending against him and hence, this Court is not inclined to grant anticipatory bail to the second petitioner and this petition is dismissed against the second petitioner.

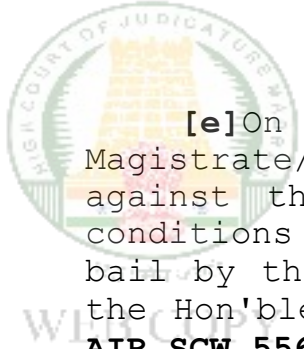
6.Accordingly, the first petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Usilampatty, Madurai District on condition that the first 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 first 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 first petitioner shall report before respondent police daily at 10.30 am., until further orders.

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

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

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

sd/-
15/07/2021

/ 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,
USILAMPATTI, MADURAI DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
USILAMPATTY TOWN POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP (MD) No.9347 of 2021
Date :15/07/2021