



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

Date : 05/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.9454 of 2021

1. B.Vignesh,

2. H.Arun Kumar, ... Petitioners/Accused Nos.1 & 2

Vs

The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District.
(Crime. No.647 of 2021).

... Respondent/Complainant

For petitioners :M/s.Prithiviraj.P.R,
Advocate.

For Respondent :Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime.No.647 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, apprehending arrest at the hands of the respondent police for the alleged offences punishable under Section 379 I.P.C and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.647 of 2021 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported ½ unit of river sand by using the vehicle.

3.The learned counsel for the petitioners would submit that the petitioners are innocents, they have not committed any offence as



alleged by the prosecution, but they have been falsely implicated in this case. However, to show their bona fide, they are is prepared to pay a sum of Rs.10,000/- to the credit of Chief Minister's Relief Fund.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioners had illegally transported ½ unit of sand and no previous case is pending against the petitioners.

5.Taking into consideration of the facts and circumstances of the case and the fact that no previous case is pending, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned District Munsif Cum Judicial Magistrate, Thiruvidaimaruthur, 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 learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioners shall pay a sum of Rs.10,000/- (Rupees ten thousand only) to the account of Tamil Nadu Chief Minister's Relief Fund. The petitioners shall execute the sureties on showing the receipt of the said amount.

(c)the petitioners shall report before the respondent police as and when required for interrogation.

(d)the petitioners shall not tamper with the 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]**; and;

(g)if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7.It is needless to say that any tool or instrument or vehicle used for illegal quarrying/ transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals (Development &



Regulation) Act and if any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation) Act.

WEB COPY

8. Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities have not invoked the provision of 21 (4-A) of the Mines and Minerals (Development & Regulation) Act 1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasised the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals (Development & Regulation) Act and as per the guide lines issued in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020.

sd/-
05/08/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MSA

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 District Munsif Cum Judicial Magistrate,
Thiruvidaimaruthur.
2. Do-Through The Chief Judicial Magistrate,
Thanjore District at Kumbakonam.



3. The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District.

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

Copy to
The Officer Incharge,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

ORDER IN
CRL OP (MD) No.9454 of 2021
Date : 05/08/2021

TR/PN/SAR-I (18.08.2021) 4P 6C