



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 04.08.2021

WEB COPY

PRESENT

**The Hon'ble Mr. Justice B. PUGALENDHI**

CRL OP (MD) No. 9809 of 2021

V.K.R.Subramania Adhithan @  
Subramaniya Athithan

... Petitioner/5<sup>th</sup> Accused

**Vs**

The State Rep. by,  
The Inspector of Police,  
Thiruchendur Police Station,  
Thoothukudi District.  
(Crime No.221 of 2021).

... Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu,  
Senior Counsel  
for Mr.Adithyavijayalayan, Advocate.

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

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

**PRAYER :-**

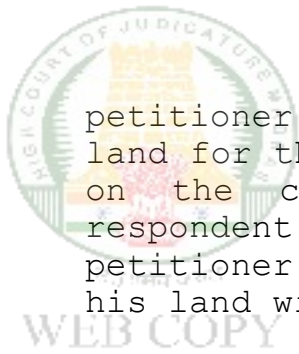
For Anticipatory Bail in Crime no.221 of 2021 on the file of the respondent Police.

**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 Section 379 of IPC in Crime No.221 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner by using JCB and Taurus Lorry has taken away 150 loads of red soil from his patta land in S.No.249/1A1T at Mela Thiruchendur Village. Hence, the complaint.

3. Mr.V.Kathirvelu, learned Senior Counsel appearing for the petitioner submits that admittedly, the land is a patta land of this



petitioner and the petitioner has taken away red soil from his patta land for the purpose of levelling his land for agriculture. However, on the complaint of the Village Administrative Officer, the respondent Police has registered a false case as against this petitioner alleging that he has illegally transported red soil from his land without valid permit from the competent authorities.

4. The learned Government Advocate (Criminal Side), produced the First Information Report in Crime No.221 of 2021 and the proceedings of the Revenue Divisional Officer, Thiruchendur in Na.Ka.No.A5/ 2467/2021 dated 09.07.2021.

5. The case in Crime No.221 of 2021 was registered based on the complaint of the Village Administrative Officer of Mela Thiruchendur that this petitioner has taken away 150 loads of red soil from his patta land without valid permit. Based on the complaint and the First Information Report, the Revenue Divisional Officer has also initiated proceedings under Section 36(A) of Mines and Minerals (Development and Regulation) Act, 1957 and has imposed penalty to the tune of Rs.1,31,96,680/-. The Revenue Divisional Officer has imposed the penalty 15 times the mineral rate and seigniorage, by fixing the seigniorage at Rs.26/-. As against the proceedings of the Revenue Divisional Officer, the petitioner is having remedy before the appellate forum. Whether the petitioner has taken the red soil for agricultural purpose or commercial purpose is not known. But, considering the fact that this petitioner has taken red soil from his patta land, this Court is inclined to grant Anticipatory Bail to the petitioner.

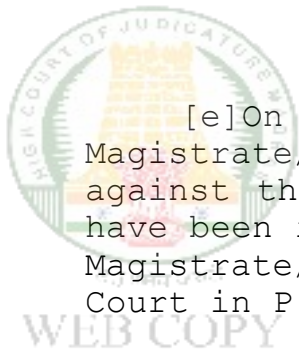
6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate, Thiruchendur on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that:

[a]the 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 petitioner shall report before respondent police as and when required, until further orders.

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

[d]the petitioner shall not abscond either during investigation



[e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the 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/-  
04/08/2021

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

+1 CC to M/s.A.MOHAMED HANEEP, Advocate (SR-5111[I] dated 5/8/2021)

ORDER  
IN  
CRL OP (MD) No.9809 of 2021  
Date :04/08/2021

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<https://hcservices.ecourts.gov.in/hcservices/> 09/08/2021 : 3P/6C