



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

Date : 29/07/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.10065 of 2021

Gowtham

... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
(Crime No.943 of 2021)

... Respondent/Complainant

For Petitioner : Mr.R.L.Dhilipan Pandian,
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.943/2021 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 IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act 1957, in Crime No.943 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant on secret information that sand had been illegally transported in two wheeler, visited Erukkampallam river bud, near Vennaru and found the accused illegally transporting sand in two wheelers. On seeing the police, the stopped the vehicle and escaped. Police found ¼ unit of sand in every two wheelers. 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. He further submitted that there is no mention in FIR about the vehicle number, which was used for illegal transportation of sand.



4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is not completed.

5.Narration in FIR shows that the accused in this case had illegally transported sand in two wheeler. It is also seen that the accused stopped the vehicle and escaped from there. Strangely, registration number of the two wheeler had not been mentioned in FIR, as pointed out be the learned counsel for the petitioner, it creates some doubt in the very basis of the case of the prosecution.

6.Considering the lacuna in not even mentioning the registration number of the two wheeler, which said to have used for transportation of sand and the claim made that in each of the two wheelers, the Police found ¼ unit of sand is out of sort, this Court is inclined to grant anticipatory bail to the petitioner.

7.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 learned Judicial Magistrate No.II, Thanjavur District, 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 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 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 daily at 10.30 am., 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 or trial.

[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/-
29/07/2021

/ TRUE COPY /

/ /2021

WEB COPY

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.II, THANJAVUR DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE,
THANJAVUR TALUK POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10065 of 2021
Date :29/07/2021

GNS

MS/JM/SAR-3/02.08.2021/3P.5C