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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/07/2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.10147 of 2021

Arunkumar ... Petitioner/Sole Accused

Vs

The State Rep. by,
The Inspector of Police,
Aundipatti Police Station,
Theni District.
(Crime No. 553/2021).

... Respondent/Complainant

For Petitioner : Mr.P.Senguttuarasan,
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. 553 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 21(4) of the Mines and Minerals (Development & Regulation) Act, 1957 and Sections 379 IPC in Crime No.553 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 24.07.2021, when the defacto complainant along with his staff were engaged in preventing offence related to mines and minerals, they found in Andipatti-Theppampatti road, a mini van bearing registration No.TN 75 3818 with one unit Oodai sand, without any permission. The driver escaped from there. 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.

4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is pending. However, he conceded that there is no previous case pending against the petitioner.

5.It is a case of illegal possession and transportation of one unit of Oodai sand. There is no specific mention as to the place where from the sand was removed. The vehicle and sand had been seized. Considering the fact that the sand involved in this case is Oodai sand and also the fact that material witnesses are official witnesses, 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 learned Judicial Magistrate, Aundipatti, 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.

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30/07/2021

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

ORDER
IN
CRL OP(MD) No.10147 of 2021
Date :30/07/2021

gns
USK/JM/SAR-II : 04/08/2021 : 3P/5C