



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

Date : 30/07/2021

WEB COPY

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) No.10145 of 2021

Jegan

... Petitioner/Accused Rank Not Known

Vs

The State Rep. by,
The Inspector of Police,
ST Kulam Police Station,
Kanyakumari District.
(Crime No. 196 of 2021).

... Respondent/Complainant

For Petitioner : Mr.J.POOVENTHERA RAJAN,
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.196 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 IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, in Crime No.196 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 21.07.2021, the defacto complainant got an information that Thaeri sand had been removed from Mannaraja Kovil complex. He visited there at about, 12.30 pm., and found sand was removed by making pit to the length of 30 feet and breadth of 10 by using JCB bearing registration No.TN74AK6177. It was informed that the sand was removed for the construction of community centre. However, there is no permission to remove the sand. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and the sand was removed for the purpose of constructing community centre in the temple premises.



4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is pending and the petitioner is having four previous cases. However, they are registered under Indian Penal Code.

5.It is seen from the facts of the case that the petitioner along with other accused said to have removed sand within the temple complex of Mannaraja Kovil. It is alleged that sand was removed for the construction of community centre. It is seen that the vehicles used for removing sand and the sand had been sized. Considering all these factors and the fact that material witnesses are only 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 No.III, Nagercoil, 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 is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Coimbatore Advocate Clerk Welfare Association, District Court Branch, Coimbatore (SB Account No.170801000018467, IFSC Code: IOBA0001708), without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties.

[c]the petitioner shall report before respondent police daily at 10.30 am., until further orders.

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

[e]the petitioner 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 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/-
30/07/2021

WEB COPY

/ 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 NO.III,
NAGERCOIL.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
ST KULAM POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO :

THE OFFICER-INCHARGE,
COIMBATORE ADVOCATE CLERK WELFARE ASSOCIATION,
DISTRICT COURT BRANCH,
COIMBATORE.

+2 CC to M/s.J.POOVENTHERA RAJAN, Advocate (SR-5049[I] & SR-5051[I]
dated 03/08/2021)

ORDER
IN
CRL OP(MD) No.10145 of 2021
Date :30/07/2021