



WEB COPY

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.10513 of 2021

1.Somasundaram
2.Selvakumar
3.Muthaiah

... Petitioners/Accused Nos. 1 to 3

Vs

State Rep by
The Inspector of Police,
M.Kallupatti Police Station,
Madurai District.

Crime No.60 of 2021 ... Respondent/Complainant

For Petitioners: Mr.R.Balamurugan

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

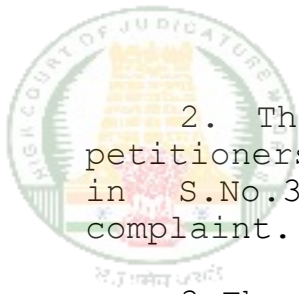
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime no.60 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of IPC and Section 21(5) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.60 of 2021, seek anticipatory bail.



2. The case of the prosecution is that on 02.06.2021, the petitioners had illegally involved in mining red soil from the land in S.No.325/1,2,3,4,5,6,7 by using JCB vehicle. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners have transported red soil from the patta land of the first petitioner only for agricultural purposes.

4.The learned Government Advocate (Crl.side), on instructions, would submit that the first petitioner is having one previous case, which is similar in nature and no other case of similar nature is pending against the petitioners 2 and 3.

5.Considering the fact that the petitioners 2 and 3 have no previous case of similar nature, this Court is inclined to grant anticipatory bail to the petitioners 2 and 3. Since the first petitioner is having one previous case of similar nature, the petition as against him is dismissed.

6.Accordingly, the petitioners 2 and 3 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Special District Court dealing with the cases of offences in contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai on condition that the petitioners 2 and 3 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 2 and 3 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 petitioners 2 and 3 shall report before respondent police daily at 10.30 am., until further orders.

[c]the petitioners 2 and 3 shall not tamper with evidence or witness either during investigation or trial.

[d]the petitioners 2 and 3 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 petitioners 2 and 3 in accordance with law as if the conditions have been imposed and the petitioners 2 and 3 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)



[f]If the accused thereafter abscond, 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, 1957 and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act, 1957, is liable to be confiscated under Section 21(4-A) of the Act.

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 emphasized the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police, Forest, 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, 1957 and as per the guidelines issued in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020.

9. Accordingly, this Criminal Original Petition is partly allowed.

sd/-
05/08/2021

/ TRUE COPY /

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

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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 SPECIAL DISTRICT COURT
DEALING WITH THE CASES OF OFFENCES IN
CONTRAVENTION OF THE PROVISIONS OF THE MINES
AND MINERALS (D&R) ACT, MADURAI

2 THE INSPECTOR OF POLICE
M.KALLUPATTI POLICE STATION,
MADURAI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10513 of 2021
Date :05/08/2021

PKP/JC/SAR1 10/08/2021 : P4:4C