



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

Date : 11/08/2021

PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

WEB COPY

CRL OP(MD) . No.10796 of 2021

1.RAJ BENO
2.KANAGARAJ

... PETITIONERS/ACCUSED NO.2 & 3

VS

STATE REP. BY ITS
THE INSPECTOR OF POLICE,
PUTHUKADAI POLICE STATION,
KANNIYAKUMARI DISTRICT.
(CRIME NO 157/2021). ... RESPONDENT/COMPLAINANT

FOR PETITIONER : MR.S.SIVAKUMAR
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.157 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 offence punishable under Section 379 of IPC in Crime No.157 of 2021, seek anticipatory bail.

2. The case of the prosecution is that on 05.04.2021, the petitioners had illegally transported three units of red sand by using two Tempos. Hence, the complaint.

3. This is a second anticipatory bail petition. The earlier anticipatory bail Petition filed in Crl.OP(MD)No.5342 of 2021 was dismissed as against these petitioners on 16.04.2021.

4. The learned counsel for the petitioners submits that the petitioners are innocent persons and they are falsely implicated in this case.

5. The learned Government Advocate (Criminal Side), on instructions, would submit that the petitioners had illegally transported three units of river sand without permit. He would further submit that the first petitioner is having two previous cases, which are similar in nature and no other case of similar nature is pending against the second petitioner.



6. Considering the facts and circumstances of the case and the fact that the second petitioner has no previous case of similar nature, this Court is inclined to grant anticipatory bail to the second petitioner. Since the first petitioner is having two previous cases of similar nature, this Court is not inclined to grant anticipatory bail to the first petitioner. Hence, this petition is partly allowed.

7. Accordingly, the second 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 No.2, Kuzhithurai, on condition that the second 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 Magistrate concerned and on further conditions that:

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

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

[d]the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
11/08/2021

/ 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 NO.II,
KUZHITHURAI.
2. DO THORUGH THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGARCOIL.
3. THE INSPECTOR OF POLICE,
PUTHUKADAI POLICE STATION,
KANNIYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC TO M/S.S.SIVAKUMAR, ADVOCATE (SR-5363[I] DATED 12/08/2021)

ORDER
IN
CRL OP(MD) No.10796 of 2021
Date :11/08/2021

GC/JM/SAR-I/23/08/2021/3P/6C