



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05.08.2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.10681 of 2021

Appadurai

... Petitioner/Accused Rank not known

Vs

State Rep by
The Inspector of Police,
Orathanadu Police Station,
Orathanadu,
Thanjavur District.
In Crime No.761 of 2021

... Respondent/Complainant

For Petitioner : Mr.K.Arunraj

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.761 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 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.761 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that on 18.07.2021, the petitioner along with the other accused had illegally removed pond soil from the Government Poramboke land. Hence, the complaint.



3. The learned counsel for the petitioner submits that the petitioner is an innocent person and he is falsely implicated in this case. Further, he would submit that the petitioner has no previous case.

4. The learned Government Advocate (Criminal Side), on instructions, would submit that the petitioner along with the other accused had illegally removed half unit of pond soil from the Government Poramboke land. He would further submit that no other case of similar nature is pending against the petitioner.

5. Considering the fact that the petitioner has no previous case of similar nature and that the petitioner has taken sand only from pond, 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 District Munsif cum Judicial Magistrate, Orathanadu on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum to the satisfaction of the Magistrate concerned and on further conditions 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.

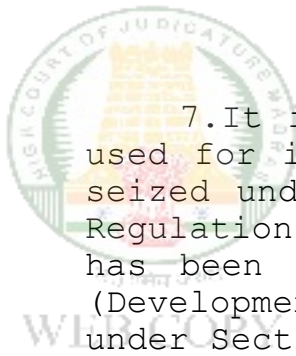
[b]the petitioner shall report before respondent police as and when required, until further orders.

[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.



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.

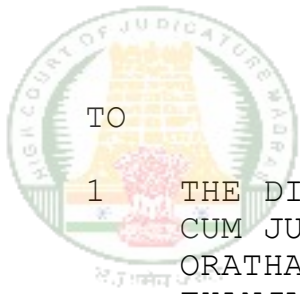
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05/08/2021

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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 DISTRICT MUNSIF
CUM JUDICIAL MAGISTRATE,
ORATHANADU
THANJAVUR DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR AT KUMBAKONAM

3 THE INSPECTOR OF POLICE
ORATHANADU POLICE STATION, ORATHANADU,
THANJAVUR DISTRICT.

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

ORDER

IN

CRL OP(MD) No.10681 of 2021

Date :05/08/2021

PKP/JC/SAR1 10.08.2021: P6: 5C