



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 12.08.2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP (MD)No.11048 of 2021

1.Deiventhran
2.Palraj

... Petitioners/Accused No.1 & 2

Vs

State rep by
The Inspector of Police,
Poovanthi Police Station,
Sivagangai District.
(Crime No.125 of 2021)

... Respondent/Complainant

For Petitioners : Mr.K.Anbarasan
Advocate

For Respondent : Mr.P.Kottai Chamy
Government Advocate(Crl. side)

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

PRAYER :-

For Anticipatory Bail in Crime no.125 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(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.125 of 2021, seek anticipatory bail.

2. The case of the prosecution is that on 21.06.2021, the petitioners had illegally transported one unit of river sand. Hence, the complaint.

3. This is a second anticipatory bail petition. The earlier anticipatory bail Petition filed in Crl.OP(MD)No.8251 of 2021 was dismissed as against the petitioners on 24.06.2021.



4. The learned counsel for the petitioners submits that the petitioners are innocent persons and they are falsely implicated in this case. Further, he would submit that the petitioners have no previous case.

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5. The learned Government Advocate (Criminal Side), on instructions, would submit that the petitioners had illegally transported one unit of river sand without permit. He would further submit that no other case of similar nature is pending against the petitioners.

6. Considering the facts and circumstances of the case, nature of allegation levelled against the petitioners and the fact that the petitioners have no previous case of similar nature, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, this petition is allowed and the petitioners are granted anticipatory bail on condition that the petitioners shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate Court No.II, Sivagangai.

7. On depositing the above said amount, the petitioners 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 Judicial Magistrate Court No.II, Sivagangai, on condition that the petitioners 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 Magistrate concerned and on further conditions that:

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

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

[d]the petitioners 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 in accordance with law as if the conditions



have been imposed and the petitioners 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.

8.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.

9.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-2 Department, dated 05.08.2020. 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-2 Department, dated 05.08.2020.

sd/-
12/08/2021

/ TRUE COPY /

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

mbi

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,
SIVAGANGAI

2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE
SIVAGANGAI DISTRICT

3 THE INSPECTOR OF POLICE
POOVANTHI POLICE STATION,
SIVAGANGAI DISTRICT

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

COPY TO :

THE OFFICER-IN-CHARGE
CHIEF MINISTER PUBLIC RELIEF FUND
GOVERNMENT OF TAMIL NADU
SECRETARIAT CHENNAI-9

ORDER
IN
CRL OP(MD) No.11048 of 2021
Date :12/08/2021

PKP/JM/SAR1/23.08.2021/P4/6C