



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 01/09/2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD). No.12425 of 2021

A.Maria Packiyarani ... Petitioner/Accused No.4
Vs

State rep by
The Inspector of Police,
Manaparai Police Station,
Trichy District.
(Crime No.869/2021) ... Respondent/Complainant

For Petitioner : Mr.S.Ramsundarvijayraj,
Advocate.

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.869 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 offence punishable under Section
379 I.P.C and 21(1) of I.P.C, in Crime No.869 of 2021, seeks
anticipatory bail.

2.The case of the prosecution is that on 13.07.2021, at about
04.30 am., the respondent police got a secret information with
regard to the storage of river sand near Muthupudaiyanpatti Railway
Bridge. They visited the spot and found two lorries bearing
registration Nos.TN-48-AF-6018 and TN-45-BT-9559 respectively with
river sand and one unregistered JCB which was used for loading. One
Karthickeyan, Paulsekar and Manogar were arrested by the Police and
this case came to be registered.

3. This is a second anticipatory bail petition. The earlier
anticipatory bail Petition filed in Crl.OP(MD)No.9773 of 2021 was
dismissed as against the petitioner on 27.07.2021.

4.The learned counsel for the petitioner submitted that the
petitioner is an innocent person and he has been falsely implicated



5. The learned Government Advocate(Crl.side) appearing for the respondent police submitted that the petitioner along with other accused kept the sand for transportation and also submitted that there is no previous case pending against the petitioner.

6.Considering the nature of mineral involved and the antecedents of the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

7.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 Judicial Magistrate Court, Manaparai, 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 learned Magistrate concerned and on further conditions that:

[a]the petitioner and the sureties shall affix his photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of his Aadhaar card or bank pass book to ensure their identity.

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

[c]the petitioner shall not tamper with the 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 absconds, 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 emphasised the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and 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/-
01/09/2021

/ 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,
MANAPARAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.

3 THE INSPECTOR OF POLICE
MANAPARAI POLICE STATION, TRICHY DISTRICT.

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

+1 CC to Mr.S.RAMSUNDARAVIJAYRAJ, Advocate SR-5867

ORDER

IN

CRL OP(MD) No.12425 of 2021

Date : 01/09/2021

SS/JM/SAR-IV/06.10.2021 : 3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>