



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

Date : 12/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.11269 of 2021

Sasikumar ... Petitioner/Accused(Sole)

Vs

State Rep.by
The Inspector of Police,
Ammapettai Police Station,
Thanjavur District.
(Crime No.816 of 2021)

... Respondent/Complainant

For Petitioner : Mr.R.L.Dhilipan Pandian,
Advocate.

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

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No. 816 of 2021 on the file of the respondent police.

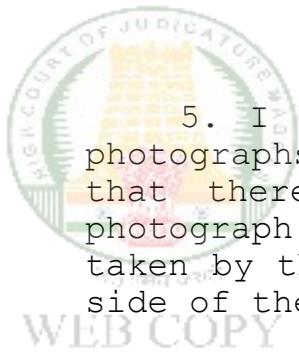
ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 01.08.2021 for the offences punishable under Sections 379 of IPC and Section 21(4) of MMDR Act, 1957 in Crime No.816 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner has illegally taken and transported one unit of river sand in his TATA 407 Van.

3. The learned counsel for the petitioner submitted that this case has been falsely foisted against the petitioner as if he has taken one unit of river sand. But, the petitioner has not committed any offence. The learned counsel has also placed some photographs stating that there is no mineral in the offending vehicle.

4. The learned Government Advocate(Crl.Side) appearing for the respondent opposed for grant of bail on the ground that the petitioner is having three previous case. The learned Government Advocate has also placed a photograph of the offending vehicle.



5. I have seen the photographs produced on either side. The photographs produced by the learned counsel for the petitioner show that there is no mineral in the offending vehicle. But the photograph produced by the learned Government Advocate has been taken by the respondent Police in such a way that it shows only the side of the vehicle.

6. It appears that the respondent Police has not come with clean hands and a case has been foisted against the petitioner without minerals. Therefore, this Court is inclined to grant the relief to the petitioner. At the same time, since the petitioner is having three previous cases, this Court is inclined to grant bail to the petitioner on condition that he shall file an undertaking affidavit that he will not indulge in any such offence, before the concerned Judicial Magistrate as well as before the respondent Police.

7. Accordingly, this Criminal Original Petition is ordered. The petitioner is directed to be released on bail on his executing 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 Judicial Magistrate, Papanasam, Thanjavur District and on further conditions that:

[a] 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 file an undertaking affidavit in Tamil that he will not indulge in any other offence in future, before the concerned Judicial Magistrate as well as before the concerned Police Station. On filing the undertaking affidavit, the concerned Judicial Magistrate shall accept the sureties. The undertaking affidavit should be attested by the concerned Superintendent of Jail authority.

[c] the petitioner shall report before the Kulithalai Police Station daily at 10.30 a.m. until further orders.

[d] the petitioner shall not abscond either during investigation or trial.

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

[f] 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]**.



[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
12/08/2021

/ TRUE COPY /

WEB 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,
PAPANASAM, THANJAVUR DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE OFFICER INCHARGE, SUB JAIL,
THANJAVUR.
4. THE INSPECTOR OF POLICE,
AMMAPETTAI POLICE STATION,
THANJAVUR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
KULITHALAI POLICE STATION, KULITHALAI.

ORDER
IN
CRL OP(MD) No.11269 of 2021
Date :12/08/2021

OGY
MS/PN/SAR-2/12.08.2021/3P.7C