



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01.09.2021

WEB COPY

PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.11989 of 2021

S.Jobu ... Petitioner/Accused (Rank Not Known)
Vs

State Rep. by,
The Inspector of Police,
Nithiravilai Police Station,
Kanniyakumari District.
(Crime No.06 of 2021)

... Respondent/Complainant

For petitioner : Mr.M.R.Sreenivasan,
Advocate.

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

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

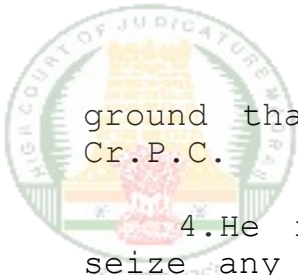
PRAYER :-For Anticipatory Bail Crime No.06 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused rank not known, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Section 379 r/w 120 B of I.P.C, in Crime No.06 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.It appears that this is the second anticipatory bail application. The case of the prosecution is that the petitioner has attempted to transport large quantity of cooking turmeric through boat to Sri Lanka.

3.The learned counsel for the petitioner submits that the boat does not belong to the petitioner and on assumption, the case has been registered and totally six persons have been arrayed as accused. The case was originally registered for the offence under Section 102 Cr.P.C. and now altered into 12(1) (a) of Passport Act. The learned counsel would further submit that the earlier anticipatory bail moved by the petitioner was dismissed on the



ground that the case case been registered under Section 102 of Cr.P.C.

4.He further submit that Section 102 empowers the police to seize any property which is suspected to have been stolen or it could be found under suspicion, which creates suspicion of commission of any offences. Admittedly, nobody has claimed that this seized Turmeric has been stolen by this petitioner.

5.Now the respondent police altered the offence to 12 (1) (a) of Passport Act. Section 12(1) of the Passport Act is a penalty provision for any violation of Section 3 of the Act. The learned counsel relied on Section 3 of the Passport act, which reads as follows:

"3. Passport or travel document for departure from India.—No

person shall depart from, or attempt to depart from India unless he holds in this behalf a valid passport or travel document. Explanation.—For the purposes of this section,—

(a) "passport" includes a passport which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed under the Passport (Entry into India) Act, 1920 (34 of 1920), in respect of the class of passports to which it belongs;

(b) "travel document" includes a travel document which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed.

6.The learned counsel further submitted that it is not the case of the prosecution that this petitioner being a citizen of India either departed from India or attempted to depart from India. The turmeric is said to have been seized only from the shores of India. It is not known how this offences can be attracted as against this petitioner.

7.The learned Government Advocate (Crl. Side), submitted that the petitioner along with others had attempted to export large quantity of turmeric to Sri Lanka and the investigation is yet to be completed.



8.Considering the facts and circumstances of the case, the nature of allegations and also considering the materials as against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with stringent conditions.

9.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Kuzhithurai, 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 their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioner shall report before the respondent police daily at 10.30 a.m.

(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]***; and;

(f)if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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



TO

1 THE JUDICIAL MAGISTRATE NO.II, KUZHITHURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE INSPECTOR OF POLICE
NITHIRAVILAI POLICE STATION, KANYAKUMARI DISTRICT.

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

+1 CC to MR.M.R.SREENIVASAN, Advocate (SR-5881[I] dated 02/09/2021)

ORDER

IN

CRL OP(MD) No.11989 of 2021

Date :01/09/2021

TM

MK/PN/SAR.III/14.09.2021/4P/6C