



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

Date : 26/08/2021

PRESENT

**The Hon'ble Mr.Justice B.PUGALENDHI**

CRL OP(MD). No.12073 of 2021

Latha ... Petitioner/Petitioner/Accused  
(Rank Not Known)

**Vs**

The State Rep. by,  
The Inspector of Police,  
Orathanadu Police Station,  
Thanjavur District.  
(Crime No.509 of 2021). ... Respondent/Respondent/Complainant

For Petitioner : Mr.M.Pitchai Muthu,  
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. 509 of 2021 on the file of the respondent Police.

**ORDER :** The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 379 IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.509 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner has illegally taken one unit of lake sand in two tipper lorries.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and she has been falsely implicated in this case.



4.The learned Government Advocate(Crl.side) appearing for the respondent police submitted that this is the second anticipatory bail petition. The earlier petition was dismissed by this Court vide order dated 06.07.2021. He further submitted that the petitioner is not having any previous case.

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

6. Accordingly, this Criminal Original Petition is allowed The petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Orathanadu, Thanjavur District, 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 Magistrate may obtain a copy of their 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.

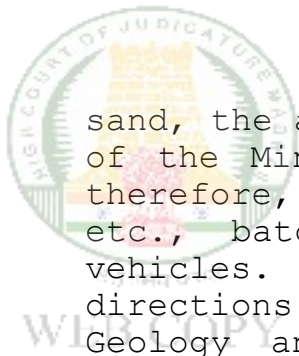
[d]the petitioner shall not abscond either during investigation or trial.

[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.

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 and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation)Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation) 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 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 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals (Development & Regulation) Act and as per the guide lines issued in G.O.Ms.No.170, Industries MMC-2 Department, dated 05.08.2020.

sd/-  
26/08/2021

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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,  
ORATHANADU, THANJAVUR DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,  
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE,  
ORATHANADU POLICE STATION,  
THANJAVUR DISTRICT.
4. ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

ORDER  
IN  
CRL OP(MD) No.12073 of 2021  
Date :26/08/2021

USK/VR/SAR-I/08.09.2021/3P/5C

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