



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

Date : 27/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12014 of 2021

1. Archunan
2. Prabakaran

... Petitioners/Accused No.1 & 2

Vs

The State Rep.by
The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.
(Crimr No.188 of 2021).

... Respondent/Complainant

For Petitioners : Mr.M.S.Jeyakarthik,
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. 188 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 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.188 of 2021, seek anticipatory bail.

2. The case of the prosecution is that on 23.05.2021, the petitioners along with some other persons had illegally transported 1/2 unit of savadu sand by using tractor. Hence, the complaint.

3. The learned counsel for the petitioners submits that the petitioners are innocent persons and they are falsely implicated in this case.

4. The learned Government Advocate (Criminal Side), on instructions, would submit that the petitioners had illegally transported 1/2 unit of savadu sand without permit. He would



further submit that no other case of similar nature is pending against the first petitioner and two previous cases of similar nature are pending against the second petitioner.

5. Since the second petitioner is having two previous cases of similar nature, this Court is not inclined to grant anticipatory bail to the second petitioner and this Criminal Original Petition is dismissed as against the second petitioner.

6. Considering the facts and circumstances of the case, nature of allegation levelled against the first petitioner, the fact that the first petitioner has no previous case of similar nature, this Court is inclined to grant anticipatory bail to the first petitioner. Accordingly, this petition is allowed and the first petitioner is granted anticipatory bail on condition that the first petitioner shall pay a sum of Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) 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 his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate No.I, Ramanathapuram.

7. On depositing the above said amount, the first 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 No.I, Ramanathapuram, on condition that the first 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 Magistrate concerned and on further conditions that:

[a] the first 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 Aadhar card or Bank pass Book to ensure their identity.

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

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

[d] the first 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 first petitioner in accordance with law as if the conditions have been imposed and the first petitioner released on bail. 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.

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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-II 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-II Department, dated 05.08.2020.

sd/-

27/08/2021

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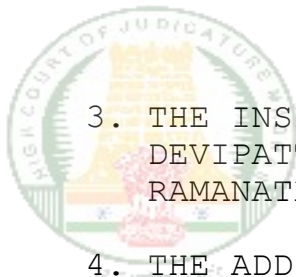
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 NO.I, RAMANATHAPURAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.



3. THE INSPECTOR OF POLICE,
DEVIPATTINAM POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

COPY TO:

THE OFFICER INCHARGE,
THE CHIEF MINISTER PUBLIC RELIEF FUND,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, CHENNAI-9.

ORDER
IN
CRL OP(MD) No.12014 of 2021
Date :27/08/2021

IAS
MS/VR/SAR-2/02.09.2021/4P.6C