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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 02/09/2021

PRESENT

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

**CRL OP (MD) . No.12036 of 2021**

1. K.Selvakumar

2. V.Rengasamy

... Petitioners/Accused No.1 & 2

Vs

State rep.by

The Inspector of Police,

Aalangulam Police Station,

Virudhunagar District.

(Crime No.93 of 2021).

... Respondent/Complainant

For Petitioners : M/s.Karthick.R.J., Advocate.

For Respondent : M/s.P.Kottaichamy,  
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.93 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of IPC (Sand Theft), Sections 4(1)(1A) and 21(1) of Mines and Minerals (Development and Regulation) Act 1957 in Crime No.93 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the petitioners have illegally transported 2 ½ units of gravel sand by using Tipper Lorry bearing Registration No.TN-34-F-3364. Therefore, the present case came to be registered.



3.The learned counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case.

4.The learned Government Advocate(Crl.side) appearing for the respondent police submitted that the second petitioner is having six previous case, out of which, three cases have been closed. He further submitted that there is no previous case pending against the first petitioner.

5.Considering facts and circumstances of the case and the fact that the second petitioner is having three previous cases, this Court is not inclined to grant anticipatory bail to the second petitioner and this petition is dismissed as against the second petitioner.

6.Considering the fact that the first petitioner has not involved in any other offences, this Court is inclined to grant anticipatory bail to the first petitioner and this petition is allowed, so far as the first petitioner is concerned.

7.Accordingly, 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 learned Judicial Magistrate, Srivilliputhur, 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 learned Magistrate concerned and on further conditions that:

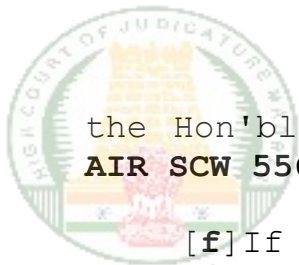
**[a]**the first petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

**[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 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

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Sd/-  
02/09/2021

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/ /2021  
Sub-Assistant Registrar (C.S.III)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

SJI

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, SRIVILLIPUTHUR.
2. THE CHIEF JUDICIAL MAGISTRATE,  
VIRUDHUNAGR DISTRICT AT SRIVILLIPUTHUR.
3. THE INSPECTOR OF POLICE,  
AALANGULAM POLICE STATION,  
VIRUDHUNAGR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

ORDER  
IN  
CRL OP(MD) No.12036 of 2021  
Date :02/09/2021

SP/JC/SAR III/09/09/2021/3P/5C