



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26.08.2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.12197 of 2021

1.Sundaramoorthi

2.Ajith

3.John

... Petitioners/Accused 1 to 3

Vs

State rep by
The Inspector of Police,
Kallaperambur Police Station,
Thanjavur District
(Crime No. 154/2021).

... Respondent/Complainant

For Petitioners : Mr.S.Balaji, Advocate

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Criminal Side)

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

PRAYER :-

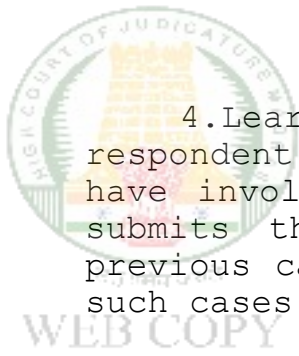
For Anticipatory Bail in Crime No.154 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.154 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the petitioners have illegally transported 3/4 unit of river sand in bullock cart. Hence, the present case has been registered.

3.Learned Counsel for the petitioners submits that the petitioners are innocents and have not committed any offence as alleged by the prosecution. However, a false case has been foisted as against them and therefore, prays for grant of anticipatory bail.



4.Learned Government Advocate (Crl.side) appearing for the respondent police, on instructions, submits that the petitioners have involved in illegal transportation of river sand. He further submits that apart from this case, the petitioners are having previous cases of similar nature to their credit and the details of such cases are as follows:

First Petitioner / First Accused -

i)Thanjavur East Police Station, Cr.No.213 of 2019, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

ii)Thanjavur West Police Station, Cr.No.199 of 2021, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

Second Petitioner / Second Accused -

i)Kallaperambur Police Station, Cr.No.26 of 2020, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

ii)Thanjavur West Police Station, Cr.No.15 of 2021, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

iii)Mannarkudi Town Police Station, Cr.No.678 of 2020, u/s.188, 270, 336 IPC.

Third Petitioner / Third Accused -

i)Kallaperambur Police Station, Cr.No.120 of 2017, u/s.147, 148, 353, 379, 506(ii) IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

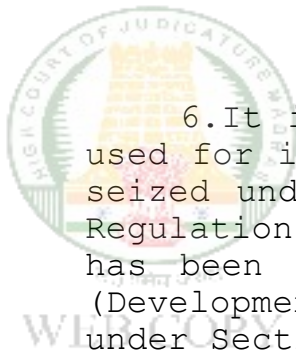
ii)Nadukaveri Police Station, Cr.No.226 of 2020, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

iii)Nadukaveri Police Station, Cr.No.77 of 2018, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

iv)Nadukaveri Police Station, Cr.No.55 of 2018, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

v)Nadukaveri Police Station, Cr.No.169 of 2012, u/s.294(b), 323 IPC.

5.Considering the facts and circumstances of the case, the nature of mineral transported and the antecedents of the petitioners, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this criminal original petition stands dismissed.



6.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.

7.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 under Section 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 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-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/-

26/08/2021

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

gk

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 INSPECTOR OF POLICE
KALLAPERAMBUR POLICE STATION,
THANJAVUR DISTRICT
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.12197 of 2021

Date :26/08/2021