



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 01/09/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD).No.12334 of 2021

Divakar

... Petitioner/Accused No.4

Vs

The State rep.by
The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
(Crime No.259/2021).

... Respondent/Complainant

For Petitioner : M/S.A.S.RAJESHWARI,
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.259 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends 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.259 of 2021, seeks anticipatory bail.

2.The prosecution case is that the petitioner has illegally transported Two units of Odai sand by using auto bearing registration No.TN-63-BF-0385. Hence, the complaint.

3.Learned Counsel for the petitioner submits that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution, but, a false case has been foisted as against him. However, to show his bona fide, he is prepared to pay a sum of Rs.15,000/- to the Chief Minister's Relief Fund and also the petitioner is ready to file an undertaking affidavit before the respondent police or the trial court that he will not indulge in any other offences in future.



4.Learned Government Advocate(Crl.side) appearing for the respondent police submitted that the petitioner has illegally transported two units of Odai sand and hence, the case was registered. He further submitted that the petitioner is having two previous cases.

5.Considering the nature of mineral involved, the antecedent of the petitioner and his willingness to pay a sum of Rs.15,000/- to the Chief Minister's Relief Fund and his willingness to file an undertaking affidavit before the trial Court or the respondent police, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is allowed on condition that the petitioner shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand 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, Thiruppuvanam, Sivagangai District.

6. On production of such receipt / acknowledgement, the 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, Thiruppuvanam, Sivagangai 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 learned Judge may obtain a copy of his 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.

sd/-

01/09/2021

/ TRUE COPY /

WEB 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 concerned.

TO

- 1 THE JUDICIAL MAGISTRATE
THIRUPPUVANAM, SIVAGANGAI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
THIRUPPUVANAM POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

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

+1 cc to M/S.A.S.RAJESHWARI, Advocate, SR.No.5940

ORDER

IN

CRL OP(MD) No.12334 of 2021
Date :01/09/2021

SA/SKN/SAR.1/26.10.2021/3P/7C