



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.09.2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.12935 of 2021

Muthu Kumar

... Petitioner/Accused No.4

Vs

The State Represented by
The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.
[Cr.No.412 of 2020]

... Respondent/Complainant

For Petitioner : M/s.M.S.Jeyakarthik, 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.412 of 2020 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 Sections 147, 323, 353 and 379 IPC r/w Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.412 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner has illegally transported river sand in a lorry. Therefore, the present case came to be registered.

3.The learned counsel for the petitioner submits that the petitioner is an innocent and he has been falsely implicated in this case and he has not committed any offence as alleged by the



prosecution and for having lodged complaint against the Village Administrative Officer, this petitioner has been roped in as accused.

4.The learned Government Advocate (Crl Side) appearing for the respondent police submitted that the petitioner has transported sand in lorry.

5.This Court directed the respondent Police to file a report. However, mere reproduction of the complaint has been filed as if the report.

6.Considering the nature of mineral involved and antecedent of the petitioner and the report filed by the respondent Police, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, this criminal original petition is allowed. 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 No.1, Ramanathapuram, 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 Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioner shall report before the 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 is 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.

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 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. 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-2) Department, dated 05.08.2020.

Sd/-

15/09/2021

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/ /2021

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

dsk

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.1,
Ramanathapuram.

2.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.

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+1. CC to M/S. JEYAKARTHIK.M.S Advocate SR.No.6282

ORDER
IN
CRL OP (MD) No.12935 of 2021
Date :15/09/2021

SP/JM/SAR I/22/09/2021/4P/6C