



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

Date : 17/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.13785 of 2021

Deepan Sakkaravarthi

... Petitioner/Accused

Vs

The State rep.by,
The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
(In Crime No.285 of 2021)

... Respondent/Complainant

For Petitioner : M/S.A.S.Rajeswari, 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.285 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 379 IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.285 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner had illegally transported four units of river sand by using lorry bearing Reg. No.TN48J 2526.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in this case. The earlier anticipatory bail petition filed by the petitioner was dismissed by this Court vide order dated 19.08.2021. She further submits that since the investigation is almost completed, the petitioner's presence is not required for interrogation. Hence, she prayed for grant of anticipatory bail.

<https://hcservicescourts.hc.in/hcservices/> She further submitted that, to show his bona fide, the petitioner is



prepared to pay a sum of Rs.70,000/- to the Chief Minister's Public Relief Fund.

4.The learned Government Advocate(Crl.side) appearing for the respondent police submitted that this is the second anticipatory bail petition and the earlier petition was dismissed by this Court, vide order dated 19.08.2021. He further submitted that the petitioner is having two previous cases in Cr.Nos.352 of 2019 and 687 of 2020.

5. Considering the nature of mineral involved, the antecedent of the petitioner and his willingness to pay a sum of Rs.70,000/- to the Chief Minister's Relief Fund, 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.70,000/-(Rupees Seventy 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 Principal District and Sessions Judge, (For Mines and Minerals Development and Regulation Act), Srivilliputhur, Virudhunagar 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 Principal District and Sessions Judge, (For Mines and Minerals Development and Regulation Act), Srivilliputhur, Virudhunagar District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judge 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 Judge may obtain a copy of their 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 Judge/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.

7. 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 and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation) Act.

8. 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 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals (Development & Regulation) Act and as per the guide lines issued in G.O.Ms.No.170, Industries MMC-2 Department, dated 05.08.2020.

sd/-

17/09/2021

/ TRUE 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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
(FOR MINES AND MINERALS DEVELOPMENT AND REGULATION ACT),
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.

2 THE INSPECTOR OF POLICE
RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3 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 IN IOB,
SECRETARIAT BRANCH, CHENNAI-9.

+1 CC to M/s.A.S.RAJESWARI, Advocate (SR-6343[I] dated 17/09/2021)

ORDER

IN

CRL OP(MD) No.13785 of 2021

Date :17/09/2021

OGY

MK/VR/SAR.IV/23.09.2021/4P/6C