



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

Date : 20.10.2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.13933 of 2021

WEB COPY

D.Mary

... Petitioner / Accused No.1

Vs

The State Rep. by
The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.
(Crime No. 865/2021)

... Respondent / Complainant

For Petitioner : Mr.K.S.Duraipandian

For Respondent : Mr.P.Kottaichamy,

Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.865 of 2021 on the file of the respondent Police.

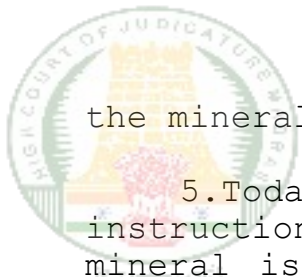
ORDER : The Court made the following order :

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.865 of 2021, seeks anticipatory bail.

2.The prosecution case is that the petitioner and other accused have illegally transported two units of sand by using a lorry. Hence, the complaint.

3.Learned Counsel for the petitioner submitted that the petitioner has transported white B-sand, that too with receipts. The petitioner is an innocent and has not committed any offence as alleged by the prosecution, but, a false case has been foisted as against him.

4.Learned Government Advocate(Crl.side) appearing for the respondent police has produced the photographs of the seized mineral in plain sight, the mineral resembles like sand. But then, since the petitioner disputed the very nature of the mineral, this Court directed the respondent police to verify the nature of



the mineral with the help of the Department of Geology and Mining.

5.Today, the learned Government Advocate (Crl. Side), on instructions from the respondent police, submitted that the seized mineral is sand, manufactured by crushing white stone. He further submitted that the petitioner is not having any other previous case to his credit.

6.In view of the aforesaid submission made by the learned Government Advocate as to the nature of mineral involved and the antecedent of the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, this Criminal Original Petition is allowed and 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 District Munsif cum Judicial Magistrate, Orathanadu, 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 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 the 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/-
20/10/2021

/ 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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ORATHANADU.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT @ KUMBAKONAM.
- 3.THE INSPECTOR OF POLICE,
ORATHANADU POLICE STATION,
THANJAVUR DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN
CRL OP(MD) No.13933 of 2021
Date :20/10/2021

SB/VR/SAR-IV/26.10.2021/3P/5C