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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.14128 of 2021

1.Muthumurugan

2.Kumar

... Petitioners/Accused No.1 & 2

Vs

State rep.by

The Inspector of Police,
Ettayapuram Police Station,
Thoothukudi District.

(Crime No.318 of 2021).

... Respondent/Complainant

For Petitioners : M/s.Prabu M, Advocate.

For Respondent : M/s.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.318 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 Sections 353, 379 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.318 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the petitioners along with other accused have illegally transported three units of gravel sand by using a Tipper Lorry bearing Registration No.TN-37-BX-5613.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case.



4. The learned Government Advocate (Crl. side) appearing for the respondent police submitted that the investigation is yet to be completed. He further submitted that the second petitioner is having one previous case of similar nature in Cr.No.59 of 2019 and no previous case is pending against the first petitioner.

5. Considering the nature of mineral involved and the antecedent of the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with stringent condition.

6. Accordingly, this Criminal Original Petition is allowed. The petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District, on condition that the petitioners 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 petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b] the petitioners shall report before respondent police daily at 10.30 a.m., until further orders.

[c] the second petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five 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) and produce the receipt / acknowledgment before the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District.

[d] the petitioners shall not tamper with the evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.



[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

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Sd/-
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/ /2021

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

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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.II,
KOVILPATTI, THOOTHUKUDI DISTRICT.
2. -DO- THRO THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
ETTAYAPURAM POLICE STATION,
THOOTHUUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER INCHARGE,
CHIEF MINISTER PUBLIC RELIEF FUND,
SECRETARIAT, CHENNAI-9.
IOB, Secretariat Branch, Chennai-9
(Account No.11720 10000 00070,
IFSC Code: IOBA0001172)

ORDER
IN
CRL OP(MD) No.14128 of 2021
Date :23/09/2021