



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.15755 of 2021

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Selvan @ Sivalingam

... Petitioner / Accused No.1

Vs

The State Rep. By its,
The Sub-Inspector of Police,
Radhapuram Police Station,
Tirunelveli District.
(Crime No. 152/2021)

... Respondent / Complainant

For Petitioner : Mr.N.Ramesh Arumugam

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.152 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, in Crime No.152 of 2021, seeks anticipatory bail.

2.The prosecution case is that the petitioner and other accused had illegally transported one unit of pond sand by using a tipper lorry. Hence, the complaint.

3.Learned Counsel for the petitioner submits that the petitioner is an innocent and has not committed any offence as alleged by the prosecution, but, a false case has been foisted against him. He further submitted that this is the third application filed for anticipatory bail and that the earlier applications were dismissed by this Court. The petitioner is ready to file an undertaking affidavit that he would not indulge in such offences in future.

4.Learned Government Advocate(Crl.side) appearing for the respondent police submitted that the petitioner has illegally transported one unit of pond sand and hence, the case was registered. He further submitted that the petitioner has two



previous cases of similar in nature.

5.Considering the nature of mineral involved, the antecedent of the petitioner and his willingness to file an affidavit of undertaking, this Court is inclined to grant anticipatory bail to the petitioner.

6.Accordingly, this 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 Judicial Magistrate, Radhapuram, 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 file an undertaking affidavit in Tamil before the respondent police as well as before the learned Magistrate that he would not indulge in any offence in future.

[c]the petitioner shall report before the respondent police daily at 10.30 am., until further orders.

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

[e]the petitioner shall not abscond either during the 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner has been 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 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.

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

ORDER IN
CRL OP(MD) No.15755 of 2021
Date :20/10/2021

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