



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.15752 of 2021

WEB COPY

1.D.Pothairaja

2.Thangeswaran

... Petitioners / Accused No. 1 & 2

Vs

State Rep. by
The Inspector of Police,
M.Pudupatti Police Station,
M.Pudupatti,
Virudhunagar District.
(Crime No. 154/2021)

... Respondent / Complainant

For Petitioners : Mr.PR.Boomee Rajan

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.154 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 Section 379 IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.154 of 2021, seek anticipatory bail.

2.The prosecution case is that the petitioners have illegally transported Karambai sand by using a vehicle. Hence, the complaint.

3.Learned Counsel for the petitioners submits that the petitioners are innocents and have not committed any offence as alleged by the prosecution, but, a false case has been foisted as against them.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Learned Government Advocate (Crl.side) appearing for the respondent police submitted that the petitioners have illegally



transported Karambai sand and hence, the case was registered. He further submitted that the first petitioner is having five previous cases and the second petitioner is having one previous case to his credit.

5.The cases pending against the petitioners are as follows:

First Petitioner:

i.M.Pudupatti Police Station Cr.No.46/2018 u/s.294(b) IPC;

ii.M.Pudupatti Police Station Cr.No.109/2017 u/s.294(b) IPC;

iii.M.Pudupatti Police Station Cr.No.176/2014 u/s.12 TNG Act;

iv.M.Pudupatti Police Station Cr.No.323/2020 u/s.379 IPC, 21(1) of Mines and Minerals (Development and Regulation) Act; and

v.M.Pudupatti Police Station Cr.No.125/2019 u/s.379 IPC, 21(1) of Mines and Minerals (Development and Regulation) Act.

Second Petitioner:

i.M.Pudupatti Police Station Cr.No.323/2020 u/s.379 IPC, 21(1) of Mines and Minerals (Development and Regulation) Act

6.Considering the nature of mineral involved and the antecedent of the second petitioner, this Court is inclined to grant anticipatory bail to the second petitioner. However, considering the antecedent of the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner.

7.Accordingly, this Criminal Original Petition is partly allowed and the second 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.II, Sivakasi, Virudhunagar District, on condition that the second 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:

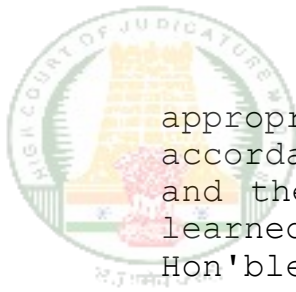
[a]the second petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

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

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

[d]the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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]**.

[f]If the second petitioner / accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

8.Insofar as the first petitioner is concerned, this petition stands dismissed.

sd/-
20/10/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

gk

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,
SIVAKASI, VIRUDHUNAGAR DISTRICT.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 3.THE INSPECTOR OF POLICE,
M.PUDUPATTI POLICE STATION, M.PUDUPATTI,
VIRUDHUNAGAR DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.PR BOOME RAJAN, Advocate (SR-7326[I] dated 22/10/2021)

ORDER IN
CRL OP(MD) No.15752 of 2021
Date :20/10/2021