



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

Date : 07/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.15922 of 2020

Rajesh

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Rayappanpatty Police Station,
Theni District.
Crime No.935/2020.

... Respondent/Complainant

For Petitioner : Mr.S.Vidhya Sagar,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 935 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 379 of IPC read with Section 21(1) and 4(1)(1-A) of Mines and Minerals [Development and Regulation] Act, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is the Driver of the vehicle bearing Registration No.TN 25 V3748 and he was found in illegal possession of one unit of Karambai sand, without any valid permit and hence the case came to registered by the respondent Police.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and a false case has been foisted against him and the petitioner has not committed any such offence, as alleged by the prosecution and the 1st accused in this case has already been granted anticipatory bail.



4.The learned Government Advocate (Crl.Side) appearing for the State would submit that the petitioner was found in illegal possession of one unit of Karambai sand and the same has also been recovered.

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5.Taking into consideration the facts and circumstances of the case and also taking into consideration the fact that the entire sand was seized by the respondent police and also considering the the 1st accused in this case already been granted anticipatory bail, this Court is inclined to grant anticipatory bail to the petitioner by imposing conditions.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Uthamapalayam on the following conditions:

(a) the petitioner shall draw a demand draft in favour of Dean, Government Rajaji Hospital, Madurai for a sum of **Rs.20,000/- (Rupees Twenty Thousand only)** without prejudice to his rights and contentions before the trial Court. The petitioner shall produce the proof of remittance /submission of Demand Draft to Dean while executing sureties.

(b) On acknowledgment of the same by the Dean, Government Rajaji Hospital, Madurai, the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(c)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the petitioner shall report before the respondent police daily at 10.30am, for a period of fifteen days and thereafter, report as and when required for interrogation.

(e)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioner shall not abscond either during investigation or trial;

(g)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]***; and;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
07/01/2021

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/ /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 JUDICIAL MAGISTRATE, UTHAMAPALAYAM.
- 2.DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
RAYAPPANPATTY POLICE STATION,
THENI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE DEAN, GOVERNMENT RAJAJI HOSPITAL,
MADURAI.

+1. CC to M/S.S.VIDHYA SAGAR Advocate SR.No.162

ORDER
IN
CRL OP(MD) No.15922 of 2020
Date :07/01/2021

DSK
TK/VR/SAR.3/18.01.2021/3P/7C