



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

Date : 01.11.2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.16877 of 2021

WEB COPY

1.Murugasan
2.Pandiyan
3.Prakathesh

... Petitioners/Accused No.1 to 3

Vs

State represented by
The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.
(Crime No.397 of 2021)

... Respondent/Complainant

For Petitioner : Mr.M.Suresh
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.397 of 2021 on the file
of the respondent Police.

ORDER : The Court made the following order :

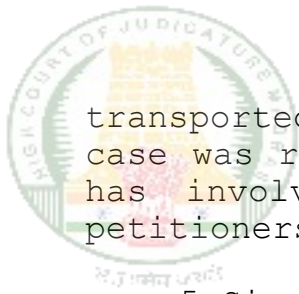
The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 379 IPC and Sections 21(1) and 21(2) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.397 of 2021, seek anticipatory bail.

2.The prosecution case is that the petitioners have been found illegally transporting $\frac{3}{4}$ unit river sand without valid permission. Hence, the complaint.

3.Learned Counsel for the petitioners submits that the petitioners are innocents and they have not committed any offence as alleged by the prosecution, but, a false case has been foisted as against them. However, to show their *bona fide*, the petitioners are prepared to pay any amount to any organization as directed by this Court.

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

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



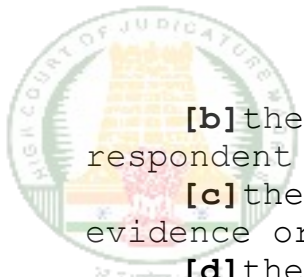
transported $\frac{3}{4}$ unit of river sand in bullock carts and hence, the case was registered. He further submitted that the first petitioner has involved in four previous cases and the second and third petitioners have not involved in any other offence.

5. Since the first petitioner has involved in four previous cases, this petition is dismissed as against the first petitioner. Considering the nature of mineral involved and antecedent of the second and third petitioner and his willingness to pay certain amount, this Court is inclined to grant anticipatory bail to the second and third petitioners. Accordingly, this Criminal Original Petition is allowed as against the second and third petitioners on condition that **the second and third petitioners each shall pay a sum of Rs.5,000/- (Rupees Five Thousand Only) in favour of the District Green Committee, Pudukottai District**, without prejudice to their rights and contentions before the trial Court and produce the receipt / acknowledgment before the learned Judicial Magistrate, Aranthangi.

6. **The District Green Committee, which was formed as per the Government Order in G.O.Ms.No.39, Environment, Climate Change and Forest (FR.13) Department, dated 02.07.2021, pursuant to the directions of this Court in W.P.No.11094 of 2021, shall utilize the amount paid by the petitioner for plantation of trees on either side of the road, tree guard, drip irrigation, manure, etc., with public participation, including, NGOs, Confederation of Industries, Rotary Clubs, Lions Clubs, School Students, College Students, Self Help Groups, labours under MGNREGS and any other volunteers, etc., to achieve 100% survival rate of the planted trees. The State Green Committee shall extend their support in this regard by recommending the correct variety / species of trees, in accordance with the soil type and climatic conditions and also for the maintenance. The maintenance of the trees planted has to be reviewed by the District Green Committee, after two years and necessary appreciations have to be made to the stakeholders concerned in the form of certificates.**

7. On production of receipt / acknowledgement for having paid the amount before the District Green Committee, the second and third 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, Aranthangi on condition that the second and third petitioners each 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 and third petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Judge may obtain a copy of their Aadhaar card or



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

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

[d]the second and third petitioners shall not abscond either during the investigation or trial.

[e]On breach of any of the aforesaid conditions, the learned Judge/Trial Court is entitled to take appropriate action against the second and third petitioners in accordance with law as if the conditions have been imposed and the second and third petitioners are released on bail by the learned Judge/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.

8.In fine, this petition is partly allowed.

sd/-
01/11/2021

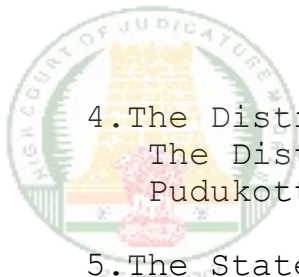
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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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,
Aranthangi.
- 2.Do Through The Chief Judicial Magistrate,
Pudukottai District.
- 3.The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.



4.The District Collector,
The District Green Committee,
Pudukottai District.

5.The State Green Committee,
Chennai.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL OP(MD) No.16877 of 2021
Date :01/11/2021

RS/VR/SAR3 (11.11.2021) 4P 7C