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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 17/11/2021

PRESENT

**The Hon`ble Mr.Justice K.MURALI SHANKAR**

**CRL OP(MD) . No.17845 of 2021**

Muthuraja ... Petitioner/Sole Accused

Vs

State rep.by  
The Inspector of Police,  
Srivainkundam Police Station,  
Tuticorin District.  
(Crime No.298 of 2021). ... Respondent/Complainant

For Petitioner : M/s.Angusamy,V. Advocate.

For Respondent : M/s.S.Manikandan,  
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 298 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 379 IPC r/w 21(5) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.298 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and other accused have illegally transported the river sand in thirty three gunny bags each contains 30 kgs.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. However, he would further submit that the petitioner without prejudice to his right, is ready to deposit the amount that may be imposed by this Court.



4.The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the petitioner and other accused have illegally transported river sand in thirty three gunny bags.

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5.Considering the facts and circumstances of the case and considering the nature of the charges levelled against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of the District Mineral Foundation Trust, Tuticorin, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate, Srivaikundam District.

7.On production of such receipt/acknowledgment, 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, Srivaikundam, 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 Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioner shall report before respondent police daily at 10.30 a.m., for a period of one month and thereafter, as and when required for interrogation.

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

[d]the petitioner shall not abscond either during 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 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]**.



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

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Sd/-  
17/11/2021

/ TRUE COPY /

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

DAS

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 CHIEF JUDICIAL MAGISTRATE,  
SRIVAİKUNDAM.
2. -DO- THROUGH  
THE CHIEF JUDICIAL MAGISTRATE,  
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,  
SRIVAİKUNDAM POLICE STATION,  
THOOTHUKUDI DISTRICT.
4. THE DISTRICT MINERAL FOUNDATION TRUST,  
THOOTHUKUDI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

ORDER  
IN  
CRL OP (MD) No.17845 of 2021  
Date :17/11/2021