



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/02/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.1301 of 2022

Arumugam

... Petitioner/Sole Accused

Vs

State rep.by
The Inspector of Police,
R.S.Mangalam Police Station,
Ramanthapuram District.
(Crime No.95 of 2021)

... Respondent/Complainant

For Petitioner : M/s.A.Anandaraj, Advocate.

For Respondent : M/s.T.Senthilkumar
Additional Public Prosecutor

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

PRAYER :-

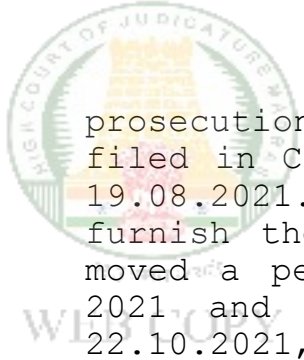
For Anticipatory bail in Crime No.95 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Section 379 IPC and Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.95 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner has illegally transported one unit of river sand by using Tractor.

3. This is the third anticipatory bail petition. Considering the fact that this is the third anticipatory bail petition and there is no change in circumstance in this case, this Court, vide order dated 27.01.2022, dismissed this petition. After going through the records, this Court found that the first anticipatory bail petition filed in CrI.O.P.(MD)No.9338 of 2021 was dismissed for non-



prosecution on 26.07.2021 and the second anticipatory bail petition filed in Crl.O.P.(MD)No.11410 of 2021 was allowed by this Court on 19.08.2021. Due to the pandemic situation, the petitioner failed to furnish the sureties within the stipulated time. Therefore, he moved a petition for extension of time in Crl.M.P.(MD)No.8473 of 2021 and the same was allowed by this Court by order dated 22.10.2021, by extending a further period of 10 days. Even thereafter, the petitioner has not furnished the sureties. Therefore, the petitioner has filed this third anticipatory bail petition.

4. Considering the fact that the petitioner has already been granted anticipatory bail by this Court and also considering the reasons stated for not furnishing the sureties in time, this Court is inclined to grant anticipatory bail to the petitioner.

5. Accordingly, this criminal original petition is allowed on condition that the petitioner shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai - 9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned District Munsif cum Judicial Magistrate, Thiruvadanai.

6. On production of such receipt/acknowledgement, 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 District Munsif cum Judicial Magistrate, Thiruvadanai, on condition that 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 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 am., until further orders.

[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 is 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.

WEB COPY

7. It is needless to say that any tool or instrument or vehicle used for illegal quarrying/ transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals (Development & Regulation) Act, 1957 and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act, 1957 is liable to be confiscated under Section 21(4-A) of the Act.

8. Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities have not invoked the provision of 21 (4-A) of the Mines and Minerals (Development & Regulation) Act, 1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasised the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries (MMC-2) Department, dated 05.08.2020. Therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals (Development & Regulation) Act, 1957 and as per the guidelines issued in G.O.Ms.No.170, Industries (MMC-2) Department, dated 05.08.2020.

Sd/-

15/02/2022

/ TRUE COPY /

/ /2022

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

OGY

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.



1. THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, THIRUVADANAI.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3. THE INSPECTOR OF POLICE,
R.S.MANGALAM POLICE STATION,
RAMANATHAPURAM DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER INCHARGE,
CHIEF MINISTER PUBLIC RELIEF FUND,
SECRETARIAT, CHENNAI-9.

ORDER
IN
CRL OP(MD) No.1301 of 2022
Date :15/02/2022

SP/SBN/SAR III/25/02/2022/4P/6C