



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06.04.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.4117 of 2022

Siva

...Petitioner/Accused No.2

Vs

State rep.by

The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
(Crime No.93 of 2021)

... Respondent/Complainant

For Petitioner : Mr.N.Jeyaram Sidharth, Advocate

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

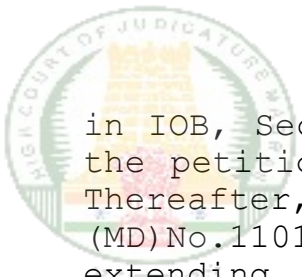
For Anticipatory Bail in Crime No.93 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent Police punishable under Section 379 IPC and Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.93 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused illegally transported ½ unit of river sand by using Tata Sumo Car bearing Reg.No.TN45 BZ 3323. Hence, the complaint.

3. The learned counsel for the petitioner submits that this Court, by order dated 10.08.2021, while granting anticipatory bail to the petitioner and other co-accused, directed them to pay a sum of Rs.7,500/- each to the credit of Government of Tamil Nadu, CMPRF



in IOB, Secretariat Branch, Chennai - 9. Due to financial crisis, the petitioner could not pay the amount as directed by this Court. Thereafter, he filed a petition for extension of time in CrI.M.P. (MD)No.11019 of 2021, that was allowed by this Court on 22.12.2021, extending a further period of 15 days. Despite the same, the petitioner could not arrange the sureties and pay the amount. Therefore, the petitioner moved this petition. Now, the petitioner is ready to pay a sum of Rs.10,000/- instead of Rs.7,500/- to any organization as directed by this Court. An undertaking affidavit is also filed to that effect.

4. Considering the allegations levelled against the petitioner and also considering the fact that this Court already granted anticipatory bail to the petitioner and also considering his readiness to pay a sum of Rs.10,000/- instead of Rs.7,500/- to any organization as directed by this Court, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, the Criminal Original Petition is allowed on condition that the petitioner shall pay a sum of Rs.10,000/- (Rupees ten thousand only) to Research and Development Wing (Siddha), Indian Medicine and Homeopathy Department, Arumbakkam, Chennai - 600 106, in Canara Bank, Anna Nagar East Branch, Chennai, (Account No.0974101556378, IFSC Code: CNRB0000974), without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgement before the learned Judicial Magistrate. The amount paid by the petitioner shall be utilized by the said Department for research activities in Siddha Medicine.

5. 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 No.II, Virudhunagar, 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 the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required;

[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]** and

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

8. 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.

9. 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 under Section 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 emphasized 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-II) 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-II) Department, dated 05.08.2020.

Sd/-
06/04/2022

/ TRUE COPY /

09/06/2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

OGY



TO

1. THE JUDICIAL MAGISTRATE NO.II,
VIRUDHUNAGAR.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
3. THE INSPECTOR OF POLICE,
KARIYAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

1. THE OFFICER INCHARGE, RESEARCH AND
DEVELOPMENT WING (SIDDHA), INDIAN MEDICINE
AND HOMEOPATHY DEPARTMENT, ARUMBAKKAM,
CHENNAI-600 106.
2. THE OFFICER-INCHARGE,
CHIEF MINISTER PUBLIC RELIEF FUND IN IOB,
GOVERNMENT OF TAMIL NADU, SECRETARIAT BRANCH,
CHENNAI-9.

ORDER

IN

CRL OP(MD) No.4117 of 2022

Date :06/04/2022

SP/VR/SAR II/09/06/2022/4P/7C