



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

Reserved on : 06.09.2022

Delivered on : 09.09.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.13673 of 2022

Senthilvel

... Petitioner/Accused
Rank Not Known

Vs.

1.State rep.by
The Deputy Superintendent of Police,
CBCID Wing,
Tirunelveli District.

2.The Inspector of Police,
CBCID (SID), Tirunelveli Range,
Tirunelveli.
Crime No.2 of 2021.

3.The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli.
Cr.No.417/2020.

... Respondents/Complainants

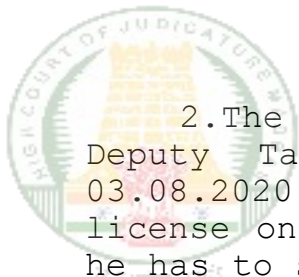
For Petitioner : Mr.Niranjana S. Kumar, Advocate.
For Respondents : Mr.S.Ravi,
Additional Public Prosecutor.

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

PRAYER :- For Anticipatory Bail in Crime No.2 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 Sections 379 IPC @ 120(b) and 379 IPC r/w 21(1) (IV) of Mines and Minerals (Development and Regulation) Act @ Sections 420, 465, 468, 471, 120 (b) and 379 IPC r/w 21(1) (IV) of Mines and Minerals (Development and Regulation) Act, in Crime No.417 of 2020, on the file of the Kallidaikurichi police, which has been transferred to the second respondent Police and re-numbered as Crime No.2 of 2021, seeks anticipatory bail.

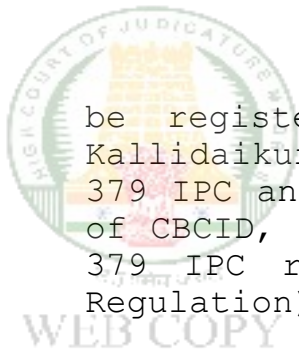


2.The case of the prosecution is that one Marisel is Deputy Tahsildar of Ambasamudram, has given a complaint on 03.08.2020 stating that one Manuvel George was granted with a license on 09.11.2019 for a period of five years on condition that he has to store the mines and minerals only in Survey No.843, Pottal Village, Kallidaikurichy, Part-II, Tirunelveli District. However, he was granted liberty to purchase the mines and minerals from the nearby quarry being run by one Sankara Narayanan @ Sankaran in various Survey numbers. During inspection, it was found that in other survey numbers also under the guise of washing the sand, in several places ponds have been dug and the quarried sand came through digging, have been stocked in heaps just adjacent to the ponds, which were dug. By using the washed sand, the ponds were filled and closed. The enquiry has further revealed that the above said Manuvel George in the name of producing M.Sand, has transported the sand unauthorizedly by using the permit chits issued for the purpose of transporting M.Sand. The over all enquiry, according to the defacto complainant reveals that the aforesaid manuvel George is responsible for the aforesaid activities, which ultimately resulted in the loss to the exchequer of the State. Hence the complaint.

3.The petitioner's case is that he is a Deputy Tahsildar and is now presently undergoing magisterial training under Special Judicial Magistrate, Judicial Magistrate Court No.V, Tirunelveli, that he was appointed as Special Deputy Tashildar in the Office of Assistant Director (Mines), Tirunelveli on 06.06.2019 and thereafter, he was posted in the Office of Special District Revenue Officer (Land Acquisition) on 14.07.2020, that the role of the petitioner is only confined to signing the office note prepared by the Revenue Inspector after inspection conducted by the Assistant Director (Mines), that the petitioner has no power or duty to conduct field inspection and he can only verify as to what the Revenue Inspector has stated in his Office note, that there is no illegality in the stockyard license issued to the first accused, that the petitioner is no way connected with the alleged offences, that he is innocent and that he has been falsely implicated in the above case.

4.The learned Additional Public Prosecutor appearing for the State would submit that this is a case of smuggling of huge volume of sand from 280 acres of patta land by creating forged documents, that the petitioner has used his influence and colluded with the other accused and has used forged documents and aided the other accused to obtain order from the District Collector, Tirunelveli, for M.Sand stockyard for five years, that 3600 transit passes had been issued to the first accused without following any due procedure, that the petitioner had colluded and abetted sand theft done with the first accused and others and that they are having serious objections for granting anticipatory bail to the petitioner.

5. It is not in dispute that as per the order of this Court in <https://www.crl.in/cr/11057> & 15312 of 2022, dated 20.07.2021, FIR came to



be registered in Crime No. 417 of 2022 on the file at Kallidaikurichi Police Station under Section 379 IPC @ 120(b) and 379 IPC and that subsequently, the case was transferred to the file of CBCID, Tirunelveli. Moreover, the case was altered into Sections 379 IPC r/w 21(1) (IV) of Mines and Minerals (Development and Regulation) Act @ Sections 420, 465, 468, 471, 120 (b) and 379 IPC.

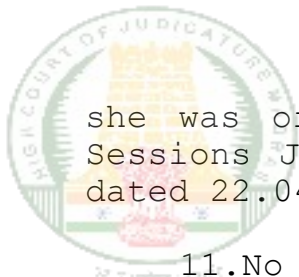
6. No doubt, as rightly contended by the learned counsel for the petitioner, in the petition for anticipatory bail filed by A1, A10 and A11, by considering the submissions of counsels of the said accused that they are willing to deposit some amount involved, the learned Judge of this Court has granted anticipatory bail, directing them to deposit a sum of Rs.15,00,000/-; Rs.10,00,000/- and Rs.5,00,000/- respectively.

7. The learned Additional Public Prosecutor appearing for the State would submit that on the basis of the confession taken from some of the co-accused, they came to know about the involvement of the other accused including the petitioner; that the petitioner was ranked as accused No.18, who was the Surveyor, helped for the alleged sand theft with ulterior motive to sell the sand by defrauding the permission obtained for stock yard; that the petitioner knowing the depth of soil, played the key role in the illegal act of sand theft and he is the master mind behind the entire episode; that the petitioner along with other accused had committed an illegal act of sand theft without proper permission and with an intention to grab the minerals from the alleged land with an intention to evade the due process of law and that the accused persons created forged permits and vehicle pass to transport the mining materials from the scene of crime to various places.

8. The learned counsel for the petitioner would submit that the petitioner was working as a Special Tahsildar in the Office of the Assistant Director (Mines) for a short period and he has nothing to do with the alleged issuance of passes and sand theft.

9. The learned counsel for the petitioner would further submit that the main official i.e., Assistant Director (Mines) was already released on bail by the Principal Sessions Court; that the first accused was already granted anticipatory bail and that therefore, there is no need or necessity for custodial interrogation of the petitioner and that the petitioner may be enlarged on anticipatory bail.

10. The learned Additional Public Prosecutor would submit that the Assistant Director (Mines) has given a voluntary confession statement elaborately narrating what had happened and she has specifically stated that the petitioner was given commission of Rs.25,000/- or one load of sand every day and that the petitioner was very much involved in the alleged offence. It is not in dispute that the Assistant Director (Mines) was arrested on 10.04.2022 and



she was ordered to be released on bail by the learned Sessions Judge, Tirunelveli in Crl.M.P.No.3165 of 2022, vide order dated 22.04.2022.

11.No doubt, the petitioner's earlier application in Crl.O.P (MD)No.7085 of 2022 was ordered to be dismissed on 18.05.2022.

12.Considering the above facts and circumstances and also the seriousness and gravity of the offence alleged as against the petitioner and also the facts that the investigation is not yet completed as stated by the learned Additional Public Prosecutor and also the objections of the prosecution that the petitioner is the master mind behind the entire episode and also taking note of the quantum of loss allegedly caused to the Government, this Court is not inclined to grant anticipatory bail to the petitioner.

13.Accordingly, this Criminal Original Petition is dismissed.

sd/-

09/09/2022

/ TRUE COPY /

/09/2022

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 DEPUTY SUPERINTENDENT OF POLICE,
CBCID WING, TIRUNELVELI DISTRICT.
2. THE INSPECTOR OF POLICE,
CBCID (SID), TIRUNELVELI RANGE,
TIRUNELVELI.
3. THE INSPECTOR OF POLICE,
KALLIDAIKURICHI POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.13673 of 2022

Date :09/09/2022

das

USK/VRS/SAR-IV/14.09.2022/4P/5C

<https://www.mhc.tn.gov.in/judis>