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

Date : 10/10/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD) . No.14810 of 2022

Balamurugan

... Petitioner/Accused No.2

Vs

State rep.by
The Inspector of Police,
Kadayam Police Station,
Tenkasi District.
(Crime No.178/2022).

... Respondent/Complainant

For Petitioner : M/s.Mathavaselvam, Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.178 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 r/w 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.178 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that on 09.06.2022, the petitioner and other accused have illegally transported three units of M-sand. Hence, the complaint.

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 shall abide any condition imposed by this Court. Hence, he prays for anticipatory bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner and other accused have transported three units of sand illegally and he is having seven previous cases, out of which, five previous cases for similar offence. The investigation is not yet completed. Hence, he strongly opposed to grant anticipatory bail.

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

6. Accordingly, the petitioner shall pay a sum of **Rs.5,000/- (Rupees Five Thousand only)** to the credit of **Rojavanam, Home for aged and poor, Account No.6481560540, Indian Bank, Madurai Bench of Madras High Court, Madurai**, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgement before the learned Judicial Magistrate, Ambasamudram, Tenkasi District.

7. On production of such receipt, 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, Ambasamudram, Tenkasi District, 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 Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.30 am until further orders.

(c) the petitioner shall not tamper with 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.

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Sd/-
10/10/2022

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/10/2022

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

SJI

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,
AMBASAMUDRAM, TENKASI DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TENKASI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
ROJAVANAM, HOME FOR AGED AND POOR,
MADURAI.

+1. CC to M/S.MATHAVASELVAM Advocate SR.No.11276

ORDER
IN
CRL OP(MD) No.14810 of 2022
Date :10/10/2022