



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 30.03.2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.16500 of 2021

1. Karunanithi
2. Selvam
3. Srinivasan

... Petitioners/Accused Nos.1 to 3

Vs

The State rep.by
The Inspector of Police,
Srirangam Police Station,
Trichy City.
(Crime No.908 of 2021)

...Respondent/Complainant

For Petitioners: Mr.K.R.NISHANTH,
Advocate.

For Respondent : Mr.R.SIVAKUMAR,
Government Advocate (Crl. Side).

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

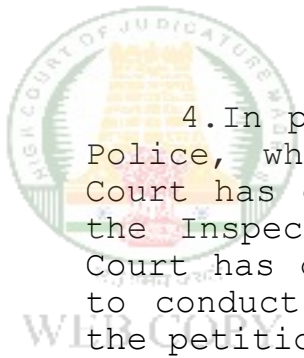
PRAYER :- For Anticipatory Bail in Crime No.908 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A.1 to A.3, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, in Crime No.908 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 21.10.2021, the petitioners have illegally transported 2 units of river sand. Hence, the complaint.

3.When the matter was taken up for hearing on 27.10.2021, the learned counsel for the petitioners submitted that when the first accused was awaiting for the execution of the bonds, as per the directions of this Court in Crl.O.P.(MD)No.15702 of 2021, the respondent police, in his absence, with the help of some JCB, taken the said vehicle from his house and registered this case, as if the petitioners had illegally transported the sand and on considering the submissions, this Court has directed the respondent police to file a report with regard to the complaint made by the petitioners' side.



4.In pursuance of the same, since the Special Sub-Inspector of Police, who had registered the case, has filed the report, this Court has directed the Inspector of Police to file a report. Since the Inspector of Police has not chosen to file the report, this Court has directed the Assistant Commissioner of Police, Srirangam, to conduct the investigation with regard to the averments made by the petitioners and to submit a report.

5.In pursuance of the same, the Assistant Commissioner of Police has filed a report stating that the first accused is the owner of the tipper lorry, that the second accused is the driver and the third accused is the cleaner of the said lorry, that they have transported 2 units of river sand illegally and that the first petitioner is having three previous cases for the similar offence.

6.The learned Government Advocate (Criminal Side) would submit that the first petitioner is having three previous cases and the other petitioners are not having any previous cases for similar offence. He would further submit that the three cases relate to the recovery of less than one unit of river sand.

7.Since the learned counsel for the petitioners has disputed the above stand of the Assistant Commissioner of Police, it is matter for further investigation.

8.Considering the above facts and circumstances and also the fact that the first petitioner is having three previous cases, relating to the recovery of less than one unit of river sand and that the petitioners 2 and 3 are not having any previous cases, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9.Accordingly, the petitioners shall deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** each to the credit of the District Mineral Foundation Trust, Trichy District, without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate No.1, Srirangam.

10.On production of such receipt/acknowledgment, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Srirangam, on condition that the petitioners shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m., for a period of one month and thereafter, as



and when required for interrogation.

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

[d]the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

sd/-

30/03/2022

/ TRUE COPY /

/ /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 JUDICIAL MAGISTRATE NO.I
SRIRANGAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3 THE INSPECTOR OF POLICE,
SRIRANGAM POLICE STATION, TRICHY CITY.

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

COPY TO:

THE OFFICER INCHARGE
DISTRICT MINERAL FOUNDATION TRUST,
TRICHY DISTRICT.

+1. CC to M/S.NISHANTH.K.R Advocate SR.No.15775 **(F)**

ORDER IN

CRL OP(MD) No.16500 of 2021

Date :30/03/2022

MK/VR/SAR.1/06.04.2022/3P/7C