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CRL OP(MD). N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.15870 of 2022

1. M.Balasubramanian @ Balasubramaniyan
S/o. Muthusamy
2. N.Balasubramanian @ Balasubramaniyan
S/o. Neelakandan, ... Petitioners/Accused Nos. 1 & 2

Vs

State Rep.by
The Inspector of Police,
Keeramangalam Police Station,
Pudukkottai District.
(Crime No.172/2022).. ... Respondent/Complainant

For Petitioners : Mr.M.Suresh, 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.172/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Section 379 I.P.C r/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.172 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the accused persons had illegally transported each ¼ unit of river sand in the bullock cart, without valid permit. Therefore, the present case came to be registered.

3.On the side of the petitioners, it is stated that the first person is having one previous case and he prays to withdraw the



petition, in respect of first petitioner. He further submit the second petitioner is innocent and he has been falsely implicated in this case. However, to show his *bona fide*, the second petitioner has come forward to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Cr.No.172 of 2022 before the trial Court concerned.

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4. On the side of prosecution, it is stated that the accused had transported sand illegally. He further submitted that the first petitioner is having one previous case and the second petitioner is not having any previous case.

5. Considering the previous antecedent of the first petitioner, this petition is dismissed as withdrawn in respect of first petitioner.

6. Considering the nature of the mineral involved, the antecedents of the second petitioner and his willingness to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Crime Number, this Court is inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition is partly allowed on condition that the second petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Cr.No.172 of 2022 before the trial Court concerned, without prejudice to his rights and contentions before the trial Court.

8. On such deposit being made, the second petitioner is ordered to be released on bail in the event of arrest or 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, Alangudi, on condition that the second 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

a) the second 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 second petitioner shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

(c) the second petitioner shall not tamper with evidence or witness either during investigation or trial;



(d) the second petitioner shall be present before the hearing dates and before the respondent police as and when required;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second 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.

sd/-
14/09/2022

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

TO

- 1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, ALANGUDI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KEERAMANGALAM POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.15870 of 2022
Date :14/09/2022

pnm
PKP/SVR/SAR-1/20.09.2022/3P/5C