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CRL OP(MD). N



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

Date : 30/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.17405 of 2022

Kanagaraj

... Petitioner/ 4th Accused

Vs.

The State rep.by
The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli Distict.
Crime No.165/2022.

... Respondent/Complainant

For Petitioner : Mr.C.Mayilvahana Rajendran, Advocate
For Respondent : Mr.Mr.Vaikkam Karunanithi,
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in Crime No. 165 of 2022 on the file of the Respondent police.

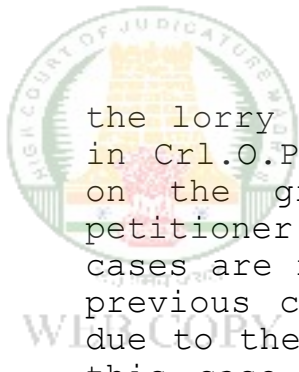
ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 279, 336, 379 IPC and 194(1) Motor Vehicles Act, in Crime No.165 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 01.07.2022, the accused persons drove the two tipper lorries in rash and negligent manner, thereby causing endanger to public. Therefore, the defacto complainant stopped the same and on inspection he found that the vehicles were overloaded with 290 kgs of M-sand, without valid permit. Hence, the complaint.

3. On the side of the petitioner, it is stated that the petitioner is innocent and has not committed any such offence, as alleged by the prosecution. The petitioner is A4 in the case. A1 and A2 are the drivers of the vehilces. A3 and A4 are the owners of the vehicles. A5 is the owner of the quarry.The allegation against the petitioner is that he transported M-sand without permit and that

<https://www.hc.madras.gov.in/dis>



the lorry was overloaded. Earlier petition filed by the petitioner in Crl.O.P.(MD)No.12193 of 2022, was dismissed on 13.09.2022, only on the ground that there were 3 previous cases against the petitioner and 2 of the cases are similar in nature, whereas, the 2 cases are filed by the neighbours under I.P.C and there was only one previous case similar in nature and that case was registered only due to the failure to transfer the ownership of the vehicle. A5 in this case was already granted anticipatory bail by this Court, in Crl.O.P.(MD)No.12516 of 2022, on 03.08.2022. A1, A2, A3 were also released on bail and prayed the petition to be allowed.

4. On the side of prosecution, it is admitted that out of 3 previous cases, 2 cases are I.P.C offence and 1 case is sand theft case and prayed to dismiss the petition.

5. Considering the nature of the previous cases and considering the nature of this case and also considering the fact that co-accused were already realeased on bail, this Court is inclined to grant anticipatory bail to the petitioner with certain condition.

6. Accordingly, this petition is allowed and this Court directs the petitioner to deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crime No.165 of 2022**, before the Judicial Magistrate No.III, Tirunelveli District.

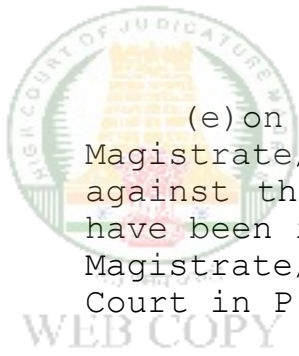
7. On such deposit being made, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate No.III, Tirunelveli District., within a period of fifteen days from the date of receipt of a copy of this order, on condition that the petitioner 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 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 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 for a period of one month and thereafter, as and when required;

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

(d) the petitioner shall be present before the Court on 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 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, FIR can be registered under Section 229-A IPC.

sd/-

30/09/2022

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/10/2022

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

+1 CC to M/s.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-10855[I] dated 30/09/2022)

ORDER

IN

CRL OP(MD) No.17405 of 2022

Date : 30/09/2022

LS

MK/GB/SAR.I/06.10.2022/3P/6C