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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/11/2022

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.17643 of 2022

T.Aravinth Kumar @ Aravinthan

... Petitioner/Accused No.3

Vs

State rep.by
The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.
(Crime.No.38 of 2022).

... Respondent/Complainant

For Petitioner : M/s.S.Kanagarajan, Advocate for
M/s.Muthumalai Raja.S, Advocate

For Respondent : Mr.SS.Madhavan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.38 of 2022 on the file of
the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A3 apprehending arrest at the hands of the respondent police for the offences punishable under section 379 IPC and sections 21(1) and 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.38 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the de-facto complainant is the Assistant Geologist/Assistant Director in the Department of Geology and Mining, Thoothukudi. He has stated in the complaint that for the purpose of taking gravel sand for Vanji Maniyachi to Nagercoil Railway Line, permission was granted to take the sand in



Survey No.6/1 for 10,000 cubic metre, as per the order of the District Collector, dated 19/01/2022, in favour of one Bharath Engineering Company. On inspection, it was found that illegal sand mining activities also took place in survey No.336/1 at Valayarkulam and in Survey Nos. 339/2, 338/1A and 338/1B, which are patta lands. So on the basis of the information furnished by the Village Administrative Officer, the above said inspection was conducted, on 15/12/2021 at about 11.30 am. On the date of inspection, it was found that totally 880 cubic metre in Survey No.336/1 and 9142.5 cubic meter in survey No.339/2 and in survey Nos.338/1A and 338/2 to an extent of 35910 cubic meters. So totally, 45932.5 cubic meters of gravel sand was taken illegally. So action was initiated against the above said company and the authorised agent of the company and the pattadhar namely Aravinthan.

3. The earlier two anticipatory bail petitions were dismissed by this Court, on the ground that the petitioner has involved in continuous land mining activity and previous cases also pending against him. This is the third anticipatory bail petition.

4. In the earlier order in CrI.OP(MD)No.14209 of 2022, dated 06.09.2022, the paragraph No.6 is relevant for consideration:

"6.From the perusal of the records, it is seen that the main allegation against this petitioner is that he was illegally doing mining activities in survey No.338/1 belongs to one Kannan by stating that the above said property is under his care and management. So according to the prosecution, by colluding with A1, this petitioner has permitted the illegal mining activities in the above said survey number, which belongs to the above said Kannan. This is the allegation. Earlier FIR has been registered against him and one another person, in Crime No.398 of 2022. In the above said case, on 15/12/2021 at about 7.45 pm, the police inspected the Lorry bearing registration No.TN-69-BC-6296, which was loaded with savudu sand. On enquiry, the above driver shown a trip slip and stated that this petitioner is helping the above said company to take the sand in the property, for which licence was not granted by the District Collector. Subsequent to the above occurrence, it is seen that the present inspection was undertaken, on 15/02/2022. So this is the subsequent event of the above said Crime No.398 of 2021, wherein the petitioner was granted anticipatory bail on the ground that he is not involved in previous case of similar in nature."

5. From the above observation, the learned Government Advocate would point out to the fact that there was no change in



circumstances, in spite of dismissal of two successive anticipatory bail petitions.

6. It appears that no proper step has been taken by the Investigating Officer, to subject him to custodial interrogation. After the dismissal of above said two petitions, it appears that this petitioner appeared before the respondent Police and gave a letter on 22.09.2022, stating that he is not involved in Crime No.38 of 2022 and the property mentioned in the FIR does not belongs to him. So, it is seen that the residence of this petitioner is well known to the Investigating Officer. In spite of that, as I mentioned earlier, no steps has been taken by him, either to enquire or to subject him for custodial interrogation.

7. It is further seen that even the address of the petitioner was mentioned in the letter, which was addressed by the petitioner to the Inspector of Police. A Special Report has been prepared, wherein, it has been stated that they visited the house of this petitioner and it was found locked. In spite of, enquiry made with family members and relatives, he could not be traced. So they are not in a position to arrest this petitioner.

8. Since the petitioner is not appearing before the respondent Police, for the purpose of investigation, there shall be a direction to the petitioner to appear before the respondent Police to complete the process of investigation. During the course of investigation, the Investigating Officer finds that the custodial interrogation of the petitioner is necessary, he is at liberty to approach the concerned Court for appropriate orders. With the above directions, this Court is inclined to grant anticipatory bail to the petitioner, with the following conditions:

9. Accordingly, this Criminal Original Petition is allowed and petitioner is ordered to be released on bail in the event of arrest or on her appearance, before the Judicial Magistrate No.I, Thoothukudi, 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 Magistrate concerned and the petitioner shall appear before the respondent Police daily at 10.30 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

10. It is further observed that, the petitioner is directed to appear before the respondent Police to complete the process of investigation. During the course of investigation, the Investigating Officer finds that the custodial interrogation of the petitioner is necessary, he is at liberty to approach the concerned Court, for appropriate orders.

11. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy



made ready, failing which, the petition for anticipatory bail stands dismissed.

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Sd/-
04/11/2022

/11/2022

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

PNM

TO

1. THE JUDICIAL MAGISTRATE NO.I,
THOOTHUKUDI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
THATTAPARAI POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.17643 of 2022
Date :04/11/2022

SP/SSS/SAR II/08/11/2022/4P/5C