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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2022

PRESENT

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

CRL OP (MD) . No.19431 of 2022

Prakash

... Petitioner/Accused No.2

Vs

State rep.by
The Inspector of Police,
Nadukaveri Police Station,
Thanjavur District.
(Crime No.96 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Senthil Murugan C, 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.96 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 Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulations) Act, 1957 in Crime No.96 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and other accused have illegally transported three units of river 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. He would further submit that A1 was already arrested and released on bail. However, the petitioner shall abide any condition imposed by this Court. Hence, he prays for anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner and other accused have illegally transported three units of river sand worth about Rs.24,000/-. He would further submit that the petitioner is a habitual offender and is having six previous cases and this is the second anticipatory bail application and the earlier application was dismissed by this Court, dated 29.09.2022 in Crl.O.P.(MD)No.14645 of 2022. Hence, he strongly opposed for grant of anticipatory bail to the petitioner.

5.Considering the facts and circumstances of the case and also considering the nature of the offence and also the fact that A1 was already arrested and released on bail, 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 Headmistress, Panchayat Union Primary School, Madurai East (Account No.10111536270, IFSC Code: SBIN0002246, State Bank of India, Othakadai Branch, Madurai)**, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgement before the learned Judicial Magistrate, Thiruvaiyaru.

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, Thiruvaiyaru, 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.

Sd/-
03/11/2022

/ TRUE COPY /

/11/2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT.
3. THE INSPECTOR OF POLICE,
NADUKAVERI POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE HEADMISTRESS,
PANCHAYAT UNION PRIMAY SCHOOL, MADURAI EAST.

+1. CC to M/S.SENTHIL MURUGAN C Advocate SR.No.12401

ORDER
IN
CRL OP(MD) No.19431 of 2022
Date : 03/11/2022