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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/11/2022

PRESENT

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

CRL OP(MD). No.20586 of 2022

Anush @ Anishkumar ... Petitioner/Accused No.5

Vs

The State rep.by,
The Inspector of Police,
Peravurani Police Station,
Thanjavur District.
(Crime No.667 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Deenadhayalan S,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

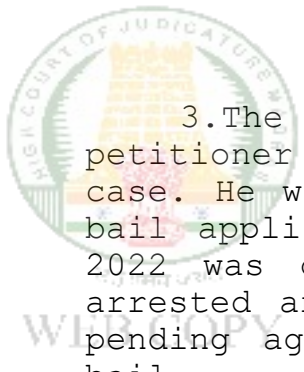
PRAYER :-

For Anticipatory Bail in Crime No.667 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.5, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 353, 379, 506(i) of IPC and Section 3(1) of TNPPDL Act @ Sections 294(b), 353, 379, 506(ii) of IPC and Section 3(1) of TNPPDL Act, and section 21(1) of Mines and Minerals (Development & Regulations) Act, in Crime No.667 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the Assistant Engineer, Department of Water Resources, Kallanai Kalvai, Peravurani. On 07.10.2022, it was found that the petitioner along with other accused said to have illegally quarried sand at Kandiyarkulam worth about Rs.30,000/- and also damaged the bank of Kandiyarkulam to the tune of Rs.50,000/-. Hence, the complaint.



3.The learned counsel for the petitioner would submit the petitioner is innocent and he has been falsely implicated in this case. He would further submit that this is the second anticipatory bail application filed by the petitioner in Crl.OP(MD)No.19111 of 2022 was dismissed by this Court, on 28.10.2022. A3 & A4 were arrested and thereafter, released on bail and no previous case is pending against the petitioner. Hence, he prays for anticipatory bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that totally 5 accused are involved in this case. The petitioner was arrayed as A5. The petitioner along with other accused said to have illegally quarried sand at Kandiyarkulam worth about Rs.30,000/- and also damaged the bank of Kandiyarkulam to the tune of Rs.50,000/-. A3 & A4 were arrested and thereafter, released on bail and no previous case is pending against the petitioner. However, the investigation in this case is not yet completed. Hence, he strongly opposed to grant anticipatory bail.

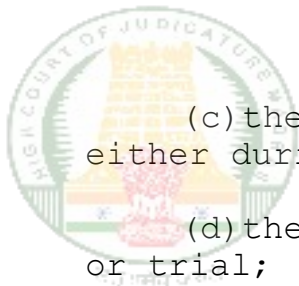
5.Considering the facts and circumstances of the case and also considering fact that co-accused were released on bail and no bad antecedent is reported against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner shall pay a sum of **Rs.5,000/- (Rupees Five Thousand only)** to the Goshala, Meenakshi Amman Temple, Madurai District, without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgement before the learned District Munsif Cum Judicial Magistrate, Peravurani, Thanjavur District.

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 District Munsif Cum Judicial Magistrate, Peravurani, Thanjavur District, 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 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.

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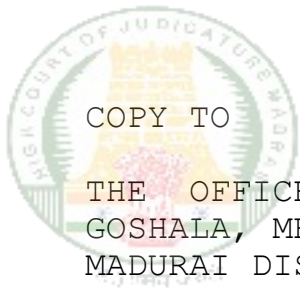
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
PERAVURANI,
THANJAVUR DISTRICT.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR @ KUMBAKONAM.
- 3.THE INSPECTOR OF POLICE,
PERAVURANI POLICE STATION,
THANJAVUR DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



CRL OP(MD). N



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COPY TO

THE OFFICER IN CHARGE,
GOSHALA, MEENAKSHI AMMAN TEMPLE,
MADURAI DISTRICT.

WEB COPY

ORDER

IN

CRL OP(MD) No.20586 of 2022

Date :21/11/2022

RK/BUC/SAR-3 (02/12/2022) 4P/6C