



WEB COPY



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

Date : 08/12/2022

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.21686 of 2022

Kokku @ Mani

... Petitioner/Accused No.1

Vs

State rep.by
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.
(Crime No.517 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Dhana Chandra Prakash S Kd,
Advocate.

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

For Intervenor : Mr.P.Ganapathi Subramanian, Advocate

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

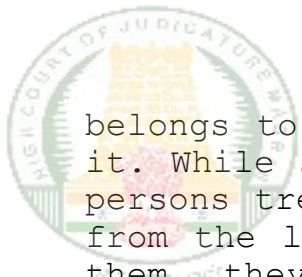
PRAYER :-

For Anticipatory Bail in Crime No.517 of 2022 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the
respondent police for the offences punishable under Sections 147,
379 and 307 IPC and Section 21(1) of Mines and Minerals (Development
and Regulation) Act, 1957 in Crime No.517 of 2022 on the file of the
respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant
<https://www.mhc.tn.gov.in/judis> Selvaraj, is that the land in S.No.983/1 measuring to an extent of
86 cents situated at Venkateshwapuram Village, Srivilliputhur Taluk,



belongs to his father, the de-facto complainant was taking care of it. While so, on 27.11.2022, two named accused and three identified persons trespassed into the property and had illegally taken a sand from the land. When the de-facto complainant had attempted to stop them, they had tried to assault and escaped from the scene of occurrence. The value of the stolen sand worth about Rs.1,00,000/-. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case, since he happens to be the owner of the Tractor. He would further submit that the de-facto complainant is an Advocate and taking advantage of the same, a false complaint has been given. He would further submit that even as per the de-facto complainant, the alleged occurrence said to have taken place on 27.11.2022 and the case has been given to the respondent after five days, ie., on 02.12.2022. Hence, he seeks anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the petitioner along with other accused had committed a theft of red sand from the patta land belonging to the de-facto complainant's family and he opposed for grant of anticipatory bail.

5.The learned counsel for the intervenor would vehemently oppose for grant of anticipatory bail stating that the accused had committed theft of sand from his land and the de-facto complainant attempted to prevent them, they criminally intimidated him.

6.At this juncture, the learned counsel for the petitioner would submit that without prejudice to his defence, the petitioner is prepared to deposit a sum of Rs.50,000/- to the credit of Crime No.517 of 2022 before the trial Court and he would also submit that there is no previous case pending against him.

7.Heard. Perused the materials available on record.

8.Taking into consideration the facts and the submissions made by both the counsels, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9.Accordingly, the petitioner shall pay a sum of **Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Crime No.517 of 2022 before the learned Judicial Magistrate No.II, Srivilliputhur,** without prejudice to his rights and contentions before the trial Court and the same can be disbursed depending upon the outcome of the trial.

10.On such deposit being made, the petitioner is ordered to be released on anticipatory 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 No.II, Srivilliputhur, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 responding police daily at 10.30 a.m. for a period of two weeks and thereafter every Saturday at 10.30 a.m., 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-

08/12/2022

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/12/2022

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

SJI

TO

1. THE JUDICIAL MAGISTRATE NO.II,
SRIVILLIPUTHUR.
2. -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
3. THE INSPECTOR OF POLICE,
SRIVILLIPUTHUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.J.JEYAKUMARAN Advocate SR.No.60794

ORDER

IN

CRL OP(MD) No.21686 of 2022

Date :08/12/2022

SP/BUC/SAR I/16/12/2022/3P/6C