



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2022

PRESENT

WEB COPY

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.22157 of 2022

Suresh

...Petitioner/Sole Accused

-VS-

State rep.by
The Inspector of Police,
Sathankulam Police Station,
Sathankulam,
Thoothukudi District.
(in Crime No.328 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.328 of 2022.

For Petitioner : Mr.E.Satheesh, Advocate

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 379 IPC in Crime No.328 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioner was allegedly indulging in illegal transportation of one unit Odaiman worth of Rs.2,000/- and on seeing the Police, the accused ran away. Hence, the complaint.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. Hence, he prays to grant anticipatory bail to the petitioner.



4. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner had indulged in illegal transportation of one unit Odaiman and on seeing the police, the accused had ran away. He vehemently opposes to grant anticipatory bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (crl.side) for the respondent and perused the materials available on record.

6. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the view of the petitioner may be directed to deposit a sum of Rs.3,000/- (Rupees Three Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

7. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

8. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner shall make a non refundable deposit of Rs.3,000/- (Rupees Three Thousand only) by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, 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 on which the order copy made ready, before the Judicial Magistrate Court, Sathankulam, 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition 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 everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday 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]**.

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

Sd/-

15/12/2022

/ TRUE COPY /

/12/2022

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

cmr

TO

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

COPY TO:

THE OFFICER INCHARGE, DISTRICT MINERAL
FOUNDATION TRUST, THOOTHUKUDI.

+1. CC to M/S.SATHEESH E Advocate SR.No.14915

ORDER

IN

CRL OP(MD) No.22157 of 2022

Date :15/12/2022