



WEB COPY

CRL OP(MD)



23

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

Date : 20/01/2023

PRESENT

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

CRL OP(MD). No.246 of 2023

Ganesan

... Petitioner/Accused No.4

Vs

State Rep.by
The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
(Crime No.1333 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Sathya Chidambarm S, Advocate
For Respondent : Mr.M.Veeranthiran,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.1333 of 2022 on the file of the Respondent Police.

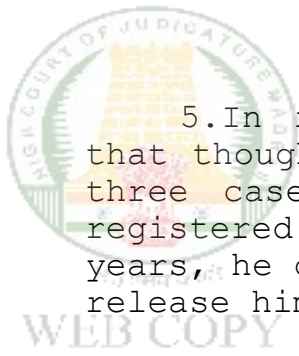
ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 379 IPC in Crime No.1333 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 accused persons were allegedly indulging in illegal transportation of three units of red-sand. 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 accused persons had indulged in illegal transportation of three units of red sand. The petitioner is having four previous cases to his credit. He vehemently opposes to grant anticipatory bail to the petitioner.



5. In reply, the learned counsel for the petitioner stated that though the petitioner is having four previous cases, in which, three cases were registered under IPC Offence and one case was registered under Mines Act, during the year 2012 and for the past 10 years, he does not have any offence under this Act. Hence, prays to release him on anticipatory bail.

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

7. 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.25,000/- (Rupees Twenty Five 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.25,000/- (Rupees Twenty Five Thousand Only) by way of Demand Draft/RTGS/NEFT to the credit of **concerned District Mineral Foundation Trust**, 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 learned **Judicial Magistrate, No.II, Thanjavur**, 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., 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]**.

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

sd/-

20/01/2023

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

PNM

TO

1 THE JUDICIAL MAGISTRATE NO.II, THANJAVUR.

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

3 THE INSPECTOR OF POLICE, THANJAVUR TALUK POLICE STATION,
THANJAVUR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.

+1 CC to M/s.SATHYA CHIDAMBARM S, Advocate (SR-968[I] dated
23/01/2023)

ORDER

IN

CRL OP(MD) No.246 of 2023

Date :20/01/2023

RS/SSS/SAR.2 (07.02.2023) 3P-7C