



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/01/2023

WEB COPY

PRESENT

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

CRL OP(MD). No.355 of 2023

1. Rajasekar
2. Chinnappa

... Petitioners/Accused No.3 & 4

Vs

State Rep.by
The Inspector of Police,
Adiramapattinam,
Thanjavur District.
Crime No.3 of 2023.

... Respondent/Complainant

For Petitioners : M/s.Pitchai Muthu M, 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.3 of 2023 on the file of the Respondent Police.

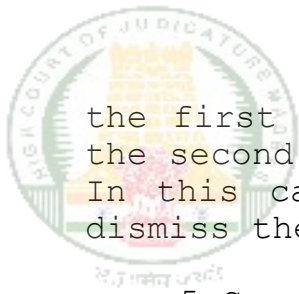
ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 21 (1) of Mines and Minerals (Development & Regulation) Act, 1957 r/w 379 of I.P.C, in Crime No.3 of 2023, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the accused persons had illegally transported river sand in bullock cart, without any valid permit. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners are innocent and they have not committed any offence, as alleged by the prosecution. Hence, prays to enlarge them on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that the accused persons had transported mineral illegally. In this case,



the first petitioner is having one previous case to his credit and the second petitioner is not having any previous case to his credit. In this case, investigation is still pending and hence, prays to dismiss the petition.

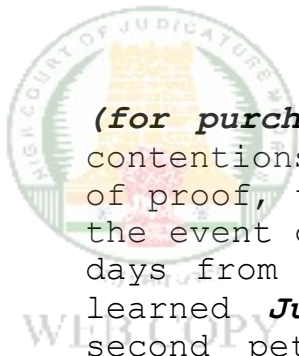
5. Considering the previous antecedents of the first petitioner, this Court is not inclined to enlarge the first petitioner on anticipatory bail.

6. This Court in a batch of applications in Crl.O.P.No.13334 of 2020, dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders being passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon, are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that the finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier applications. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the role assigned to the person would have to be considered on case to case basis.

7. It is the case of the second petitioner that the quantity is minimum intended for his personal use and he has no previous case, however in order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the second petitioner offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that the second petitioner may be directed to deposit a sum of **Rs.5,000/- (Rupees Five Thousand only)** to the credit of the **Madurai Bench High Court Advocates Association (MBHAA), A/c No.496038755, IFSC Code - IDB000H040, Indian Bank, Madurai Bench of Madras High Court, Madurai (for purchase of e-journals)** without prejudice to his rights and contentions before the trial Court.

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

9. Accordingly, the second petitioner shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **Madurai Bench High Court Advocates Association (MBHAA), A/c No.496038755, IFSC Code - IDB000H040, Indian Bank, Madurai Bench of Madras High Court, Madurai**



(for purchase of e-journals), without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the second 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, Pattukottai**, on condition that the second petitioner shall execute a separate 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 second 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 second petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders;

[c] the second petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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;

10. In respect of first petitioner, this Criminal Original Petition stands dismissed.

sd/-

06/01/2023

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

PNM



TO

1 THE JUDICIAL MAGISTRATE, PATTUKOTTAI.

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

3 THE INSPECTOR OF POLICE, ADIRAMAPATTINAM, THANJAVUR DISTRICT.

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

COPY TO

THE OFFICER INCHARGE,
MADURAI BENCH HIGH COURT ADVOCATES ASSOCIATION (MBHAA),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.355 of 2023

Date :06/01/2023

RS/SSS/SAR.1(23.01.2023) 4P-6C