



WEB COPY

CRL OP(MD)



23

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

Date : 10/01/2023

PRESENT

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

CRL OP(MD). No.528 of 2023

1. Ramar,

2. Chithiraivel @ Sivakutti, ... Petitioners/Accused 2 & 4

Vs

State Rep by
The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District
(Crime No.5 of 2023).

... Respondent/Complainant

For Petitioners : M/s.Susi Kumar.C,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.5 of 2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners/A2 & A4, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 of I.P.C., in Crime No.5 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant is that at the time of vehicle checkup conducted near Valiyaneri to Ernakulam Road, the defacto complainant along with deputed police officials intercepted a Tipper Lorry bearing registration No.TN-72-AX-2136, it is found that the first accused, who was driving the vehicle, without obtaining permission, has



transported the gravel and 2 units of gravel sand was seized, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocents and a false case has been foisted against them. He would submit that the petitioners would abide by any condition that may be imposed by this Court.

4. The learned Additional Public Prosecutor(Crl.Side) appearing for the respondent would submit that the first petitioner is having 2 previous cases and they were not registered for the similar offence of illegal transportation of sand and the second petitioner is having 4 previous cases, out of which, 3 cases were registered for the similar offence. Hence, he prays for dismissal of this application.

5. Heard. Perused the materials available on record including the First Information Report.

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 directs the first petitioner to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions before the trial Court.

7. Merely, because the first 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. Considering the fact that the second petitioner is having 3 previous cases in similar nature, this Court is not inclined to grant anticipatory bail to the second petitioner and therefore, this petition with regard to the second petitioner is dismissed.

9. Taking into consideration of the facts and circumstances of the case and also the fact that the first petitioner is not having previous cases in similar nature, this court is inclined to grant anticipatory bail to the first petitioner with certain conditions.

10. Accordingly, the first petitioner shall make a non refundable deposit of Rs.10,000/- (Rupees Ten 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 first petitioner is ordered to be released on bail in



the event of arrest or on his appearance, within a period of 15 days from the date on which the order copy made ready, before the Judicial Magistrate Court, Nanguneri, on condition that the first 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 first 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 first petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of two weeks and thereafter, on every saturday at 10.30 a.m., until further orders.

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

[d] the first 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 first petitioner in accordance with law as if the conditions have been imposed and the first 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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
10/01/2023

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/01/2023

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

CM

To,

1. The Judicial Magistrate, Nanguneri.
2. Do-Through The Chief Judicial Magistrate,
Thirunelveli District.



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3. The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to
The officer incharge,
District Mineral Foundation Trust,
Tirunelveli.

ORDER
IN
CRL OP(MD) No.528 of 2023
Date : 10/01/2023

TR/BUC/SAR-II(20.01.2023) 4P 6C