



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

Thursday, the Sixteenth day of February Two Thousand and Twenty
Three

WEB COPY

PRESENT

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

CRL OP(MD) . No.2512 of 2023

G.Gurusamy

... Petitioner/Accused A3

Vs

The State of Tamil Nadu represented by
The Sub Inspector of Police,
Watrap Police Station,
Virudhunagar District.
(Crime No.301/2022).

... Respondent/Complainant

For Petitioner : M/s.Chandrasekar G,

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.301 of 2022 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A3, who apprehends arrest at the hands of the
respondent police for the offences punishable under Section 379 of
I.P.C and Section 21(1) of Mines and Minerals (Development and
Regulation) Act, 1957, in Crime No.301 of 2022 on the file of the
respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner along with
the other accused had committed theft of $\frac{1}{4}$ unit of river sand.
Hence, the case.

3.The learned counsel for the petitioner would submit that the
petitioner is an innocent and a false complaint has been given. He
would further submit that the petitioner is a mason, aged about 60



years and he had received the said sand from one Thirumal. an and other than that he has not committed any offence. He would further submit that the said Thirumalaikumaran has also filed an affidavit of undertaking stating that the alleged river sand (kappi) was hindrance to the public and on the request of the petitioner, he handed over the same to the petitioner. Hence, he would seek for anticipatory bail.

4.The learned Additional Public Prosecutor(Cri.Side) appearing for the respondent would submit that the petitioner along with the other accused had committed theft of ¼ unit of river sand and hence, he would object for grant of anticipatory bail.

5.At this juncture, the learned counsel for the petitioner would submit that without prejudice to his contention, the petitioner is prepared to deposit a sum of Rs.5,000/- to any Welfare Scheme of the Government.

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

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 opinion that the petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the concerned District Mineral Foundation Trust without prejudice to his rights and contentions before the trial Court.

8.Merely, because the petitioner had 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.

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

10.Accordingly, the 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 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 learned Judicial Magistrate No.I, Virudhunagar District at Srivilliputtur, 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 ant. 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 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/-

16/02/2023

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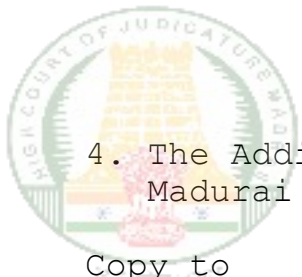
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. The Judicial Magistrate No.I,
Virudhunagar District at Srivilliputtur.
2. Do-Through The Chief Judicial Magistrate,
Viruthunagar District at Srivilliputtur.
3. The Sub Inspector of Police,
Watrap Police Station,
Virudhunagar District.



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

Copy to
The Officer In-Charge,
The District Mineral Foundation Trust,
Virudhunagar District.

+1. CC to M/S.CHANDRASEKAR G Advocate SR.No.2411(I)

ORDER

IN

CRL OP(MD) No.2512 of 2023

Date :16/02/2023

NA/CG/SAR-2/27.02.2023/4P/7C