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CRL.O.P(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22.02.2023

PRESENT

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

CRL.O.P(MD)No.3373 of 2023

Udhayaraja

...Petitioner/Accused

-vs-

State represented by
The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.
(In Crime No.323 of 2021)

...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.323 of 2021.

For Petitioner : Mr.A.S.Rajeswaran

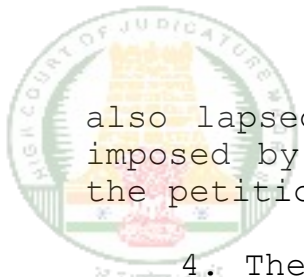
For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

O R D E R

The petitioner/accused who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 and 511 of I.P.C and Sections 21(1), 21(2) of Mines and Minerals (Development and Regulations) Act in Crime No.323 of 2021 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 has illegally transported 2 units of **odai sand** in a JCB vehicle. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false case has been foisted against him. He would further submit that earlier the petitioner was granted anticipatory bail in Crl.O.P(MD)No.11276 of 2021 vide order dated 12.08.2021. However, due to miscommunication, the order was not communicated to the petitioner and time granted



also lapsed and the petitioner is ready to abide by any order imposed by this Court. He prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner has illegally transported 2 units of odai sand in a JCB vehicle and he prays for dismissal of this application.

5. Heard. 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 opinion that the petitioner may be directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 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.

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.10,000/- (Rupees Ten Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court. On such deposit and on 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, Aranthangi, Pudukottai District**, 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 Station every Monday at 10.30 a.m., for a period of two weeks



and thereafter, every Saturday at 10.30 a.m until further or

[c] the petitioner shall not tamper with the 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]**; and;

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

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

CM

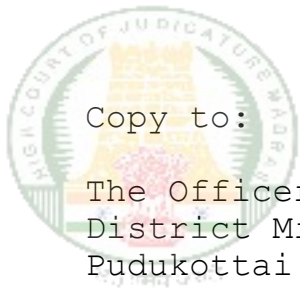
To

1.The Judicial Magistrate,
Aranthangi,
Pudukottai District.

2.Do-through The Chief Judicial Magistrate,
Pudukottai District.

3.The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.

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



CRL.O.P(MD)



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Copy to:

The Officer In-charge,
District Mineral Foundation Trust,
Pudukottai District.

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+1. CC to M/S.RAJESWARAI A S Advocate

SR.No.2652

ORDER

IN

CRL OP (MD) No.3373 of 2023

Date :22/02/2023

ED/BUC/SAR-2 (08/03/2023) 4P 7C