



WEB COPY

CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/05/2023

PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

CRL OP(MD) . No.8915 of 2023

1. Mohanraj

2. Balamurugan

... Petitioners/Accused No.2&3

Vs

The State rep.by,
The Inspector of Police,
Kadayam Police Station,
Tenkasi District
Crime No.142 of 2023

... Respondent/Complainant

For Petitioner : Mr.Venkatachalam.D,
Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.142 of 2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 of IPC, in Crime No.142 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 01.05.2023, the petitioners and another accused were found to be in unlawful possession of three units of red sand. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the first accused was already arrested and released on bail. He would submit that the petitioners are innocent and they have been falsely



implicated in this case. However, he would further submit that the petitioners, without prejudice to their rights and contentions, are ready to deposit the amount that may be imposed by this Court.

4.The learned Government Advocate (Crl.side) appearing for the respondent police would submit that the petitioners were in unlawful possession of three units of red sand. He would also submit that the first petitioner / second accused is having seven previous cases of similar nature and the second petitioner / third accused is having two previous cases of similar nature.

5.Considering the fact that the first petitioner is having seven previous cases of similar nature, this Court is not inclined to grant anticipatory bail to him. However, considering the facts and circumstances and also the nature of offence alleged, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

6.The second petitioner shall pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as non-refundable deposit to the credit of District Siddha Medical Officer CCRIPKM (Account No: 10767823177, IFSC Code: SBIN0000898, State Bank of India, Periyakulam Branch), without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the Judicial Magistrate, Ambasamudram.

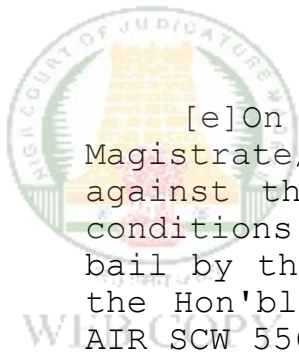
7.On production of such receipt/acknowledgment, the second petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate, Ambasamudram, on condition that the second petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties (of which one shall be a blood related surety) each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 Aadhaar card or bank pass book to ensure their identity.

[b]the second petitioner shall report before respondent police daily at 10.30 a.m., for a period of eight weeks and thereafter, as and when required for interrogation.

[c]the second petitioner shall not tamper with the 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 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 / second petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

8. In the result, the criminal original petition is partly allowed.

sd/-
18/05/2023

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/05/2023

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

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TO

- 1.THE JUDICIAL MAGISTRATE, AMBASAMUDRAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI
- 3.THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TENKASI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE DISTRICT SIDDHA MEDICAL OFFICER,
CCRIPKM, PERIYAKULAM.

+1 CC to M/s.VENKATACHALAM.D, Advocate (SR-7491[I] dated
18/05/2023)

ORDER
IN
CRL OP(MD) No.8915 of 2023
Date :18/05/2023

RK/SAR- (25/05/2023) 3P/7C

<https://www.mhc.tn.gov.in/judis>