



CRL OP(MD). No.14179 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/08/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

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Veerathevan

... Petitioner/Rank not known

Vs

The State rep.by,
The Sub Inspector of Police,
Uthappanaikanur Police Station,
Madurai District.
Crime No.124 of 2023.

... Respondent/Complainant

For Petitioner : M/s.Thalaimutharasu G, Advocate

For Respondent : Mr.S.Manikandan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.124 of 2023 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

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The petitioner/accused who apprehends arrest at the hands of the respondent police for the offences punishable under sections 21(1), 21(5) of MMDR Act 1957 r/w 379 of IPC and 3(3) TNPPDL Act, in Crime No. 124 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the Village Administrative Officer working in Thimmanatham Village. On 26.06.2023, at about 01.00 p.m, he informed the respondent police that the sand was illegally taken in Survey Nos.28/5, 28/6 and 28/7B in Thimmanatham Village. Thereafter, the respondent police visited the place and found that in the above said three survey numbers, large scale of sand have been taken illegally. The above said properties belonged to one Malaichamy. On the basis of the complaint given by the complaint given by the defacto complainant, the case was registered against the two persons. During the course of investigation, the petitioner's involvement came to light.

3. The learned counsel for the petitioner submitted that this petition has been filed mainly on the ground that mining lease was granted by the District Collector on



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08.02.2021.

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4. A reading of the above said mining lease dated 08.02.2021 shows that the petitioner was permitted to develop the above said lands by levelling and to remove the 15000 CBM out of the above said lands.

5. The above said lease was not granted in favour of the petitioner and the same was granted to one Ponnusamy. In what way, this petitioner was related to the above said Ponnusamy is not explained by him. But reading of the order dated 08.02.2021 shows that permission was granted to level the land, since the land was not even and the excess sand only was permitted for transport. The above said Ponnusamy entered into a sale agreement with one Chellamani. The above said chellamani @ Periyakaruppathevar, in the petition his address has been shown as C/o.Periyakaruppathevar, Ward No.10, Peraiyur Road, Usilampatti Taluk, Madurai District and how he is related to the Periyasamy is not mentioned by the petitioner.

6. On the earlier occasion, this Court directed the respondent police to make a personal visit.



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7. The respondent police is present before this Court and he has stated that as per the direction of this Court, he went to the spot and took photographs and he has also produced the same before this Court. The photographs would show that more than 5 feet of depth, the petitioner has taken the sand and the petitioner stated that the sand was taken for agricultural purpose and absolutely, this is a false statement.

8. It was also submitted that the petitioner entered into the lease agreement with the above said land owner, but no documents were produced before this Court to prove the same. The son of the Chellamani @ Periyakaruppathevar is also shown as second accused in this case.

9. It appears that the petitioner has not approached this Court with clean hands and moreover, more than Rs.10,00,000/-(Rupees Ten Lakhs only) worth sand was taken illegally. By taking advantage of the above said lease granted in favour of the above said Ponnusamy, the illegal activities were committed by the petitioner. Therefore, the petitioner is not entitled for the discretionary relief of anticipatory bail.



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Accordingly, this Criminal Original Petition is dismissed.

sd/-
09/08/2023

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25/08/2023

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

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TO

1. The Sub Inspector of Police,
Uthappanaikanur Police Station,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.14179 of 2023
Date :09/08/2023

RK/BUC (25/08/2023) 5P / 3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023