



CRL OP(MD). No.18288 of 2023

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

Date : 12/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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Shanmuga Sundaram @ Shanmugam

... Petitioner / Accused No.2

Vs

State through
The Inspector of Police,
Melavalavu Police Station,
Madurai.
(Crime No. 236/2023.)

... Respondent / Complainant

For Petitioner : M/s.Malai Muthan M, Advocate.
For Respondent : Mr.R.Sureshkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 236 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under sections 379 IPC and u/s. 21(5) of Mines



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and Minerals (Development and Regulation) Act, 1957 IPC in Crime No.236 of 2023,

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on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein and other accused have illegally transported 2 units of river sand and the same has been recovered. Hence, the case.

3.The learned counsel appearing for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution and his name has been falsely implicated in this case and hence, seeks anticipatory bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that petitioner herein and other accused have illegally transported 2 units of river sand and the same has been recovered. He would further submit that there is no previous case pending against the petitioner.

5. On perusal of the FIR, it is noticed that it is a case of sand theft.

6.Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)4 SCC 260, this Court is of the considered view that the alleged



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offence against the petitioner is not a case of heinous crime. Further, the petitioner is having permanent resident at Madurai District and the origin of the crime is sand theft. In this circumstances, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7. In view of the above, I am inclined to grant anticipatory bail to the petitioner. Accordingly, 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 Special District Court to deal with the Cases of Offences in the Mines and Minerals (D and R) Act, Madurai, on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 :



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[a] the petitioner shall appear before the trial Court on receipt of summons as directed by the trial Court.

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

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
12/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP



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1.The Special District Court to deal with the Cases of Offences in the Mines and Minerals (D and R) Act, Madurai.

2.The Inspector of Police,
Melavalavu Police Station,
Madurai.

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

+1 CC to M/s.M.SHAKUL HAMEED, Advocate (SR-15050[I] dated 12/10/2023)

ORDER

IN

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Date :12/10/2023

ED/DD/SAR- (17/10/2023) 5P / 5C

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