



CRL OP(MD). No.19126 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19126 of 2023

1. Sundar @ Sundar Raj

2. Chinnadurai

... Petitioners/ Accused No.1&2

Vs

The State rep.by,
The Inspector of Police,
Muneerpallam Police Station,
Tirunelveli District.
Crime No. 391 of 2023.

... Respondent/Complainant

For Petitioner : M/s. Samuel Gunasingh.P,
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. 391 of 2023 on the file of the respondent Police.

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



CRL OP(MD). No.19126 of 2023

ORDER : The Court made the following order :-

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The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 and 511 IPC in Crime No.391 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that, when the respondent police was in patrolling duty on 13.10.2023, the petitioner herein and other accused have attempted to illegally transport the river sand by using JCB. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case and hence he seeks anticipatory to the petitioners.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the petitioners herein have attempted to take the river sand by using JCB and the A2 is having two previous cases for some other offences. He would further submit that the investigation of the case is pending.



CRL OP(MD). No.19126 of 2023

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5. On perusal of the FIR, it is seen that the petitioners herein are tried to transport the river sand illegally.

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 and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners are having permanent residents at Thirunelveli District. Hence 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 to 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.



CRL OP(MD). No.19126 of 2023

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7. In view of the above, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.V, Thirunelveli on condition that the petitioners shall execute own bonds 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 :

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

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

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

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial



CRL OP(MD). No.19126 of 2023

Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
20/10/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP

TO

1.THE JUDICIAL MAGISTRATE NO.V, THIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3. THE INSPECTOR OF POLICE,
MUNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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CRL OP(MD). No.19126 of 2023

ORDER

IN

CRL OP(MD) No.19126 of 2023

Date :20/10/2023

RK/JGB (01/11/2023) 6P /5 C

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