



CRL OP(MD). No.19568 of 2023

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

Date : 02/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM
CRL OP(MD). No.19568 of 2023

Poosai Pandiyan

... Petitioner/ Accused No.1

Vs

The State rep.by,
The Sub Inspector of Police,
Seithur Police Station,
Virudhunagar District.
Crime No.236/2023.

... Respondent/ Complainant

For Petitioner : Mr.M.Jothi Basu, 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.236/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 of IPC r/w 21(4) of Mines and Minerals (Development and Regulation) Act, 1956 in Crime No.236 of 2023 on the file of the respondent police, seeks anticipatory bail.



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2.The case of the prosecution is that the petitioner has transported $\frac{1}{2}$ unit of gravel sand illegally by using vehicle bearing Reg.No.TN84M4649. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. Hence, he seeks anticipatory bail.

4.The learned Government Advocate (Crl. side) appearing for the respondent police would submit that the petitioner has illegally transported $\frac{1}{2}$ unit of gravel sand and he is having one previous case of similar in nature. Hence, he opposed to grant anticipatory bail to the petitioner.

5.Taking into consideration the nature of allegation and also 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 origine of crime, it is seen that the offence alleged as against



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the petitioner is not a case of heinous crime. Further the petitioner is having permanent residents at Rajapalayam Taluk, Virudhunagar 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.

6. In view of the above, this Court is 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 is made ready, before the learned Judicial Magistrate Court, Rajapalayam, Virudhunagar District, 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 :

[a] the petitioner shall report before the trial Court on receipt of summons;

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[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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
02/11/2023

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

SJI
TO

1. The Judicial Magistrate,
Rajapalayam, Virudhunagar District.
2. Do-Through The Chief Judicial Magistrate,
Viruthunagar District @ Srivilliputhur.



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3. The Sub Inspector of Police,
Seithur Police Station,
Virudhunagar District.

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

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-15840[I] dated 02/11/2023)

ORDER
IN
CRL OP(MD) No.19568 of 2023
Date :02/11/2023

RK/DD (17/11/2023) 5P / 6C

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