



CRL OP(MD). No.19578 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

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1. G.Sundarraaj,

2. Mari @ Mareeswaran,

... Petitioners/ Accused 2 & 6

Vs

The Inspector of Police,
Alangulam Police Station,
Virudhunagar District.
(Crime No.135/2023).

... Respondent/Complainant

For Petitioner : Mr.S.M.ANANTHA MURUGAN,
Advocate.

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

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

PRAYER :- For Anticipatory Bail in Crime No.135/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/ A2 & A6, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 IPC r/w 4(1)(1A) & 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.135 of



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2023 on the file of the respondent police, seek anticipatory bail.

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2.The case of the prosecution is that the petitioners are said to have taken sand from the patta land without getting permission from the land owner. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have 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 without getting permission from the land owner, the petitioners have taken sand from the patta land. Hence, he opposed to grant anticipatory bail to the petitioners.

5. Taking note of the nature of allegations 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 the petitioners is not a case of heinous crime. Further the petitioners are having permanent residents at Virudhunagar District. Hence the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979



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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 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.II, Sathur, Virudhunagar District, on condition that the petitioners 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 petitioners shall report before the trial Court on receipt of summons;

[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



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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 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 NO.II,
SATHUR, VIRUDHUNAGAR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE,
ALANGULAM POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.S.M.ANANTHA MURUGAN, Advocate (SR-15859[I] dated
02/11/2023)



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ORDER
IN
CRL OP(MD) No.19578 of 2023
Date :02/11/2023

SA/DD/SAR. /16.11.2023/5P/6C

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