



CRL.O.P.(MD).No.22788 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date: 18.12.2023

PRESENT

The Hon'ble MR JUSTICE V.SIVAGNANAM

CRL.O.P.(MD).No.22788 of 2023

1.Velmurugan

2.Kalimuthu

... Petitioners/ Accused 1 & 2

Vs

The Sub-Inspector of Police,
Dhalavaipuram Police Station,
Virudhunagar District.

Cr.No.336/2023

... Respondent/Complainant

For Petitioners :Mr.M.JOTHI BASU, 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.336 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Rank not known, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 of IPC r/w 21(4) of TNMMDR Act, in Crime No.336 of 2023 on the file of the respondent police, seek anticipatory bail.

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



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2.The case of the prosecution is that the accused persons were involved in illegal sand mining by using JCB and tractor and recovered one unit of gravel sand. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them, hence, he seeks anticipatory bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the the accused persons were involved in illegal sand mining by using JCB and tractor and recovered one unit of gravel sand, hence, he objected to grant anticipatory bail to the petitioners.

5.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 SC 1360 is taken into consideration. In that case, the Hon'ble



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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, they can safely be released on their 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 Judicial Magistrate Court, Rajapalayam, Virudhunagar District, 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 affix his photograph and Left Thumb Impression in the bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[b] the petitioners shall report before the trial Court on receipt of summons.

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



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

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

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].

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

sd/-
18/12/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CMR
TO
1 THE JUDICIAL MAGISTRATE,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.

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

3 THE SUB-INSPECTOR OF POLICE,
DHALAVAIPURAM POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

MADURAI

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



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+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-17949[I] dated 18/12/2023)

ORDER
IN
CRL OP(MD) No.22788 of 2023
Date :18/12/2023

SA/JGB/SAR. /26.12.2023/5P/6C

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