



CRL OP(MD) No.4971 of 2024

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

Thursday, the Twenty Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.4971 of 2024

DAMODARAN @ DHOMATHARAN

... Petitioner / Sole Accused

Vs

THE INSPECTOR OF POLICE
THATHAIYANGARPET POLICE STATION,
TRICHY DISTRICT.
(CRIME NO.62/2024).

... Respondent / Complainant

For Petitioner : M/s.K.Prakash, Advocate

For Respondent : Mr.S.Manikandan,
Government Advocate (CrI. Side)

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

PRAYER : FOR ANTICIPATORY BAIL IN CRIME NO.62/2024 ON THE FILE OF
THE RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police
for the alleged offence punishable under Section 379 IPC r/w Section 21(4) of the
Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.62 of



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2024, seeks anticipatory bail.

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2.The case of the prosecution is that the petitioner had illegally transported 1 unit of gravel sand. Hence, the case.

3.Learned counsel appearing for the petitioner submits that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. However, to show his bona fides, learned counsel for the petitioner submits that the petitioner, on his own volition is ready to contribute a sum of Rs.10,000/-(Rupees Ten Thousand only) for the purpose of restoration of the Temple Tank/Public Tank, which would be beneficial to the members of the public at large and, therefore, this Court may grant anticipatory bail to the petitioner.

4.Upon the aforesaid submission, learned members of the Bar brought to the notice of this Court that the Temple Tanks situated in and around Trichy are in a very precarious condition and that the said tanks have been encroached. In this regard, it is brought to the notice of this Court that Arulmighu Thaiyumanavar Temple, Malaikottai/Uchi Pillaiyar Koil, Malaikottai, either under the control of the Executive Officer, HR & CE Department or Commissioner of Trichy Corporation has been grossly encroached by several persons and restoration of the said Temple Tank would not only be beneficial to the deity in the Temple, but would also benefit the public at large, living in the said locality for which action has to be taken by the



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Corporation to remove the said encroachment to have the Temple Tank restored.

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5.Learned Government Advocate (Crl.Side) appearing for the respondent Police submits that the Tank situated near Arulmighu Thaiyumanavar Temple, Malaikkottai/Uchi Pillaiyar Koil, Malaikkottai is at present managed by the Trichy Corporation and, therefore, this Court may give appropriate directions to the Commissioner, Corporation of Trichy for removing encroachments if any and further the amounts of such restoration may be placed at the disposal of the Commissioner, Corporation of Trichy, in the form of Demand Drafts.

6.Coming to the case on hand, the learned Government Advocate(Crl.side) submits that there is no previous case pending against the petitioner. Accordingly, he submitted that this Court may take into consideration the above while entering the petition filed by the petitioner.

7.Having heard the learned counsel appearing on either side and also considering the facts and circumstances placed before this Court and also the fact that the petitioner is having nine cases, however, taking note of the fact that the petitioner shows some remorse to mend himself by voluntarily submitting to contribute for the welfare activities towards the public, this Court is inclined to grant anticipatory bail to the petitioner on certain conditions.

8.Accordingly, the petitioner is ordered to be released on bail in the event of



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arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thuraiyur, Trichy District on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioner, as per voluntary undertaking given for contributing a sum of Rs.10,000/- towards public welfare activities, is directed to submit a demand draft for a sum of Rs.10,000/-(Rupees Ten Thousand only) in favour of the Commissioner, Corporation of Trichy, towards the restoration of the Arulmighu Thaiyumanavar Temple, Malaikottai/Uchi Pillaiyar Koil, Malaikottai, Trichy, Temple Tank/Teppakulam, situate in the temple, without prejudice to his rights and contentions before the Trial Court and upon submission of the copy of the demand draft along with the acknowledgement of the Commissioner, Corporation of Trichy, with regard to receipt of the above demand draft, before the trial Court while executing the sureties, the same shall be entertained by the trial Court.

(b)if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;



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(c)the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required;

(e)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioner shall not abscond either during investigation or trial;

(g)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]; and;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

(i)The Commissioner, Corporation of Trichy, upon receiving the demand draft shall give necessary acknowledgement and, thereafter, is directed to coordinate with the Executive Officer, Arulmighu Thaiyumanavar Temple, Malaikottai/Uchi Pillaiyar Koil, Malaikottai, Trichy by taking steps to remove the encroachments in



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the temple tank and restore the tank to its original position so as to enable the temple tank to be utilized for the benefit of Arulmighu Thaiyumanavar Temple, Malaikottai/Uchi Pillaiyar Koil, Malaikottai, Trichy and also the general public.

9.Registry is directed to mark a copy of this order to the Commissioner, Corporation of Trichy, as also the Executive Officer, Arulmighu Thaiyumanavar Temple Malaikottai/Uchi Pillaiyar Koil, Malaikottai, Trichy, so as to enable the authorities to receive the demand draft and also take necessary action for the removal of the encroachments and also restoration of the Temple Tank belonging to Arulmighu Thaiyumanavar Temple, Malaikottai/Uchi Pillaiyar Koil, Malaikottai, Trichy.

sd/-
28/03/2024

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/04/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

To

1.The Judicial Magistrate,
Thuraiyur, Trichy District.



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2.Do through the Chief Judicial Magistrate,
Trichy District.

3.The Inspector of Police,
Thathaiyangarpet Police Station,
Trichy District.

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

Copy to:

1.The Commissioner,
Corporation of Trichy.

2.The Executive Officer,
Arulmighu Thaiyumanavar Temple
Malaikottai/Uchi Pillaiyar Koil,
Malaikottai, Trichy.

+1 CC to M/s.K.PRAKASH, Advocate (SR-3905[I] dated 28/03/2024)

ORDER
IN

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Date :28/03/2024

ED/ VR /SAR- (17/04/2024) 7P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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