



CRL OP(MD). No.5383 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/04/2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.5383 of 2024

Lingaraj,

... Petitioner/Sole Accused

Vs

The Sub Inspector of Police,
Seithur Rural Police Station,
Virudhunagar District.
Crime No.45 of 2024.

... Respondent/Complainant

For Petitioner : M/s.RAJABOOPATHY.D,
Advocate.

For Respondent : Mr.E.ANTONY SAHAYA PRABAHAR,
Additional Public Prosecutor

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

PRAYER :- For Anticipatory Bail in Crime no.45 of 2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, apprehending arrest at the hands of the respondent police in connection with the case in Crime No.45 of 2024 for the offence under Sections 379 of IPC r/w. 21(4) of Mines and Minerals (Development and Regulation) Act, 1957, has filed this petition, seeking anticipatory bail.

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



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2. The case of the prosecution is that the petitioner has illegally transported 4 bags of river sand.

3. The learned counsel appearing for the petitioner submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution.

4. The learned Additional Public Prosecutor appearing for the respondent opposed for grant of anticipatory bail on the ground that the investigation is yet to be completed. However, he fairly submits that the petitioner is not having any previous case.

5. Considering the nature of mineral involved and also considering the fact that the petitioner is not having any previous case, this Court is inclined to grant anticipatory bail to the petitioner.

6. Accordingly, this Criminal Original Petition is allowed and 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 of receipt of a copy of this order, before the concerned learned Judicial Magistrate, on condition that

(i) the petitioner executes a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties each, for a like sum to the satisfaction of the learned Judicial Magistrate Court, Rajapalayam, Virudhunagar District.



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(ii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address;

(iii) The petitioner shall appear before the respondent police daily at 10.30 am for a period of two weeks and thereafter shall appear as and when required by the respondent police. He has to co-operate for the investigation.

(iv) The petitioner shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution witnesses.

(v) On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the anticipatory bail.

7. It is needless to say that any tool or instrument or vehicle used for illegal quarrying / transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals(Development & Regulation) Act, 1957 and any vehicle or instrument or tool which has been seized under Section 21(4) of the Mines and Minerals (Development & Regulation) Act, 1957, is liable to be confiscated under Section 21(4-A) of the Act.

8. Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities have not invoked the provision under Section 21(4-A) of the Mines and Minerals (Development & Regulation) Act,



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1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasized the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries (MMC-II) Department, dated 05.08.2020. Therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals(Development & Regulation) Act, 1957 and as per the guidelines issued in G.O.Ms.No.170, Industries (MMC-II) Department, dated 05.08.2020.

sd/-
08/04/2024

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

TTA
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,
SEITHUR RURAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.



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

+1 CC to M/s.D.RAJABOOPATHY, Advocate (SR-4268[I] dated 08/04/2024)

ORDER
IN
CRL OP(MD) No.5383 of 2024
Date :08/04/2024

SA/GS/SAR. /17.04.2024/5P/6C

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