



CRL OP(MD). No.5678 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/04/2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

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1. Raman,

2. Sivakumar,

... Petitioners/ Accused Rank not known

Vs

State represented by
The Inspector of Police,
Thirukostiyur Police Station,
Sivagangai District.
In Crime No.102 of 2023.

... Respondent/Complainant

For Petitioner : M/s.Vinoth.R, Advocate

For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime no.102 of 2023 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

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The petitioners, apprehending arrest at the hands of the respondent Police, in connection with a case in Crime No.102 of 2023, for the offence punishable under Section 379 IPC and Section 21(4) of Mines & Minerals (Development & Regulation) Act, 1957, have filed this petition seeking anticipatory bail.

2. The case of the prosecution is that the petitioners have illegally transported river sand through their four wheelers.

3. The learned counsel appearing for the petitioners submits that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. The petitioners' name are not found in the FIR. They are falsely roped into this case. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent Police submits that no previous case is pending against the petitioners and anticipatory bail was already granted to the co-accused in Crl.O.P(MD)No.17260 of 2023 by order dated 22.09.2023.



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5. Considering the fact that the co-accused was already granted anticipatory bail and the petitioners' antecedents, this Court is inclined to grant anticipatory bail to the petitioners.

6. Accordingly, this Criminal Original Petition is ordered and the petitioners are ordered to be released on bail in the event of their arrest or on their appearance within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate on condition that

(i) the petitioners execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand) each, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Thirupathur, Sivagangai.

(ii) The petitioners 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 petitioners shall appear before the respondent police as and when required for interrogation. They have to co-operate for the investigation.

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



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(v) On violation of any of the above conditions by the petitioners, 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, 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.



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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/-
15/04/2024

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/04/2024

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

LR

TO

1.THE JUDICIAL MAGISTRATE, THIRUPATHUR, SIVAGANGAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

3.THE INSPECTOR OF POLICE,
THIRUKOSTIYUR POLICE STATION, SIVAGANGAI DISTRICT.

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

+1 CC to M/s.R.VINOTH, Advocate (SR-4404[I] dated 15/04/2024)

ORDER
IN

CRL OP(MD) No.5678 of 2024

Date :15/04/2024

RK/GS (18/04/2024) 5P / 6C

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