



CRL OP(MD). No.5679 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

CRL OP(MD). No.5679 of 2024

Mahendran,

... Petitioner/Sole Accused

Vs

The State represented by
The Inspector of Police,
Naducavery Police Station,
Thanjavur District.
(Crime No.174/2024).

... Respondent/Complainant

For Petitioner : Mr.A.Sivasubramanian,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.174/2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-



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The petitioner, apprehending arrest at the hands of the respondent Police, in connection with a case in Crime No.174 of 2024, for the offence punishable under Section 379 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957, has filed this petition seeking anticipatory bail.

2. The case of the prosecution is that the petitioner has illegally transported 4 sacks of river sand through his two-wheeler.

3. The learned counsel appearing for the petitioner submits that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent Police submits that the two-wheeler, which was used in the theft is seized and no previous case is pending against the petitioner.

5. Considering the facts and circumstances of the case, the antecedents of the petitioner and also the fact that the vehicle involved in the theft has also been seized,

this Court is inclined to grant anticipatory bail to the petitioner.

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6. Accordingly, this Criminal Original Petition is ordered and the petitioner is 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 petitioner 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, Thiruvaiyaru.

(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 as and when required for interrogation. 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.



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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. 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

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

LR
TO

- 1 THE JUDICIAL MAGISTRATE
TIRUPATHUR
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
THANJORE DISTRICT @ KUMBAKONAM
- 3 THE INSPECTOR OF POLICE
NADUCAUVERY POLICE STATION,
THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.5679 of 2024
Date :15/04/2024

PKP/JGB/SAR /18.04.2024/ 5P/ 5C
Madurai Bench of Madras High Court is issuing certified
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