



CRL OP(MD). No.7002 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/05/2024

PRESENT

The Hon`ble Mr.Justice ABDUL QUDDHOSE

CRL OP(MD). No.7002 of 2024

N.Krishnasamy

... Petitioner/ Accused No.2

Vs

State represented by
The Inspector of Police,
Virudhunagar Rural Police Station,
Virudhunagar District.
Crime No.83 of 2024.

... Respondent/ Complainant

For Petitioner : Mr.G.Mariappan, Advocate

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.83 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



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Police, in connection with a case in Crime No.83 of 2024, for the offences punishable under Section 379 IPC and Section 21(1) and (4) of the 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 and other accused persons were found illegally transporting 3 units of Karamabi sand in their TATA Benz Lorry bearing Registration No.TN 67 AB 7380. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Hence, he prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent Police submitted that the petitioner and other accused persons were found in possession of 3 units of Karambai sand without any valid permit. He further submits that no previous case is pending against the petitioner.

5. Heard both sides.

6. This Court, while granting anticipatory bail in this matter, has taken into consideration (a) gravity of the crime, (b) character of the evidence, (c) position and status of the accused with reference to the victim and witnesses, (d) likelihood of the accused fleeing from justice and repeating the offence, (e) possibility of the



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accused (petitioner) tampering with the witnesses and obstructing the course of justice.

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7. It is also settled law that at the time of consideration of anticipatory bail application, it is neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused (petitioner) has committed the alleged offences. What is to be seen is whether there is a reasonable ground for believing that accused (petitioner) is not guilty of the offences, he is charged with.

8. The Court has to strike a balance between the rights of the accused (petitioner) to his liberty and the interest of the society. Liberty of an accused (petitioner) cannot be snatched unreasonably for an uncertain time only on the basis of mere allegations.

9. After taking into consideration the aforementioned factors, this Court is inclined to grant anticipatory bail to the petitioner subject to fulfilment of the conditions stipulated in paragraph No.10 by him.

10. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned (*) **Judicial Magistrate No.II, Virudhunagar** on condition that the petitioner shall execute a bond for a sum of



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Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Judge concerned and on further conditions that:

(a) the petitioner shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand Only)** to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and the learned Judge, after perusing the challan/receipt, shall accept the sureties furnished by the petitioner;

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

(c) 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 for interrogation;

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

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

(f) on breach of any of the aforesaid conditions, the learned Judge/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as



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if the conditions have been imposed and the petitioner released on bail by the

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learned Judge/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

(g) if the accused/petitioner thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

10. Accordingly, this Criminal Original Petition is ordered.

sd/-

08/05/2024

**(*)AMENDED AS PER ORDER OF THIS COURT
DATED 22/05/2024 in CRL OP(MD)No.7002/2024
BY SSYJ.**

/ TRUE COPY /

/05/2024

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

PNM

TO

**TO BE SUBSTITUTED WITH THE ORDER DATED 08/05/2024 ALREADY
DESPATCHED**

1 THE JUDICIAL MAGISTRATE NO.II, VIRUDHUNAGAR.

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

3 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



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**4 THE INSPECTOR OF POLICE
VIRUDHUNAGAR RURAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.**

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

**COPY TO:
THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
VIRUDHUNAGAR.**

+1 CC to M/s.G.MARIAPPAN, Advocate (SR-5593[I] dated 22/05/2024)

**ORDER
IN
CRL OP(MD) No.7002 of 2024
Date :08/05/2024**

**SS/ED/SAR- /15/05/2024/6P/7C
TTA**

SS/GS/SAR- /23/05/2024/6P/ 8C

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