



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

Monday, the Ninth day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.3231 of 2015

NAGOOR HANIFA

... PETITIONER/ ACCUSED No.4

Vs

THE STATE REP. BY THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, MADURAI DISTRICT.
(CR.NO.19 OF 2015)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.R.ANAND Advocate

For Respondent : M/S.S.Shanmuga Velayutham State Public Prosecutor
Assistant by R.RAMACHANDRAN Additional Public Prosecutor

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

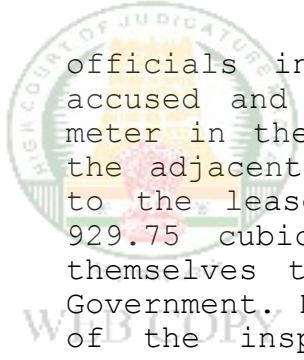
ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 01.02.2015 for the alleged offences punishable under Sections 120(b), 447, 379, 434, 420, 304(ii) r/w 511 IPC, 3(1) of TNPPDL Act, 3(a), 4(a) of Explosive Substances Act, 4(1), 4(1-a) and 21 of MMDR Act in Crime No.19 of 2015 on the file of the respondent police, seeks bail.

2. Heard Mr.Anand, learned counsel appearing for the petitioner and Mr.S.Shanmuga Velayutham, learned Public Prosecutor assisted by Mr.R.Ramachandran, learned Additional Public Prosecutor, appearing for the State.

3. The case of the prosecution has been narrated in Paragraph No.3 of the counter as follows:

"One Thiru. G.Alagupandiyan, Village Administrative Officer of Keelaiyur Village, Melur Taluk, Madurai District has preferred a complaint stating that vide G.O.Ms.(3D) No.54, Industries (MMB 1) Dept. dt. 19.11.2003, the Government granted lease to one Anwar Ali who is the younger brother of the petitioner / accused to quarry granites in Survey No. 132/4A, 4B1, 4B2, 6A1, 6A2, 6B1, 134/2, 8A, 8B, 8C, 8D, 137/2, 137/3, 137/4 and 137/12 of Keelaiyur Village to an extent of 1.11.5 Hectares for a period of 20 years. After taking lease from the Government the petitioner / accused along with the aide of his family members Anwar Ali, Rabeek Raja, Paneer Mohammed, Asad Mohammed, Raj Kapoor, Hasaniya, Byrose begum, Sheela Begum, Shagila Begum, Heeralal and Nasar along with workers Murali, Vadivelu, Veeraiah, Kamarudeen, Ragu, Velu, Chokkalingam Pillai were quarrying the lease hold land, but the special team of Government



officials inspected the quarry site and found that the petitioner / accused and their men quarried illegally to the tune of 4440.92 cubic meter in the lease hold land and further they illegally trespassed into the adjacent Government Parai Poramboke land in Survey No.137/1 adjacent to the lease hold area and illegally quarried and committed theft of 929.75 cubic meter of multi coloured granites and wrongfully gained themselves to the tune of Rs.1074 Crores causing wrongful loss to the Government. Moreover, the complainant on receipt of the Evaluation Report of the inspection team from the Tahsildar, along with his village assistant Tr.S.Jayapandi visited the quarry site and found missing of survey stones. The Government Parai Poramboke land in Survey No.137/1 was damaged by the petitioner/accused and others and excavated a deep pit, without leaving safety distance from the quarry, knowing fully well that the village people and workers of the quarry may fall in the deep pit and which may cause the loss of their life. The defacto complainant enquiry reveals that all the above said accused after getting lease from the Government on various dates illegally quarried using explosive substances and machineries, committed theft of multi coloured granites. He produced the Evaluation Report, Sketch, A-Register, Chitta, FMB sketch with the complaint. A case was registered by the Sub-Inspector of Police, District Crime Branch, Madurai in Cr.No.19/2015 u/s 120(B), 447, 379, 434, 420, 304 (ii) IPC r/w 511 IPC and 3(i) of TNPPDL Act and 3(a), 4(a) of Explosives Substances Act and 4(1), 4(1A), 21 of MM(D&R) Act. It is clearly stated that accused No.4 Nagoor Haniffa involvd in the illegal mining in Government Parai Poramboke SF.No.137/1 of Keelaiyur Village and committed theft of granite stones."

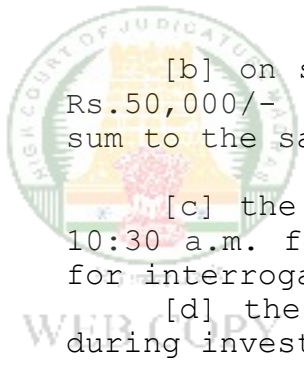
4.This Court, by a well considered order, had dismissed the anticipatory bail petitions in CrI.O.P.(MD) Nos.1886 and 1887 of 2015 in respect of the brothers of this petitioner, namely, Anwar Ali, Rabeek Raja, Panneer Mohamed, Azadh @ Azadh Mohamed and Rajkapoor in the light of the gravity of accusation against them. This petitioner was arrested on 01.02.2015 and is in incarceration since then. Custodial interrogation of this petitioner was also not obtained by Police during the initial period of remand.

5. According to the petitioner, lease hold land was sold by his brother Anwar Ali on 26.11.2008 to P.R.P.Granites owned by one Palanisamy and therefore, this petitioner was not involved in the illegal mining, as alleged by the prosecution. This aspect was also considered and rejected in CrI.O.P.(MD) Nos.1886 and 1887 of 2015.

6. Learned Public Prosecutor submitted that in the event of this Court deciding to grant bail to this petitioner, the petitioner should be directed to deposit some amount in view of the loss that has been caused to the Government on account of illegal quarrying. This Court finds that the lease hold stands in the name of Anwar Ali, who is this petitioner's brother. This petitioner was also assisting Anwar Ali in the business.

7. In view of the fact that this petitioner has been in incarceration for over 35 days, this Court is of the view that this is a fit case to grant bail to the petitioner, but on condition that the petitioner shall deposit Rs.10,00,000/- before the concerned Magistrate.

[a] the petitioner shall deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the credit of Crime No.19 of 2015 before the learned Judicial Magistrate No.I, Madurai, who shall, in turn deposit the same in a Nationalized Bank initially for two years and thereafter, it should be renewed periodically. Learned Magistrate may also pass orders with regard to the disbursement of the amount at the end of the case. This amount is also liable for forfeiture to the Government at the culmination of the recovery proceedings.



[b] on such deposit, the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Madurai;

[c] the petitioner shall report before the respondent police daily at 10:30 a.m. for a period of four 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 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].

sd/-
09/03/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE, NO.I, MADURAI.
 - 2 Do - Through THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
 - 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
 - 4 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, MADURAI DISTRICT.
 - 5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- +1. CC to M/S.R.ANAND Advocate SR.No.11194.

TS/09.03.2015/2P-7C

ORDER
IN
CRL OP(MD) No.3231 of 2015
Date :09/03/2015