



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

Monday, the Thirtieth day of October Two Thousand Seventeen
PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

WEB COPY

CRL OP(MD) No.14506 of 2017

MURUGAN ... PETITIONER / ACCUSED NO.2
Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
MUNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.
(IN CR.NO.283 OF 2017) ... RESPONDENT / COMPLAINANT

For Petitioner : M/S.T.SUGADEV, Advocate
For Respondent : M/S.K.ANBARASAN, Government Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

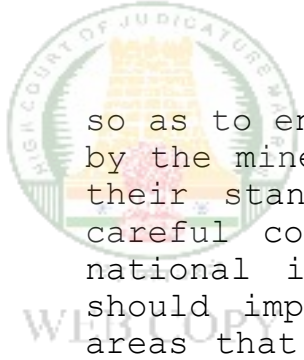
The petitioner, who apprehends arrest at the hands of the respondent Police for the offence punishable under Section 379 I.P.C., in Crime No.283 of 2017 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that on 31.08.2017 the petitioner and others illegally transported river sand without valid licence and the same was seized by the respondent police and therefore, a case was registered against the petitioner.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he did not commit any offence as alleged by prosecution. However, he agrees to deposit a sum of Rs.15,000/-(Rupees Fifteen Thousand only) to the credit of concerned District Mineral Foundation Trust Fund, without prejudice to his defence before the Trial Court.

4.The learned Government Advocate (Criminal side) appearing for the respondent Police, on instructions, would submit that investigation is pending in this case.

5.In view of increasing illegal sand mining activities in the river, nearby riverbed areas and environmental issues caused by the illicit mining operations, the Central Government in terms of the provisions of sub-section (1) of Section 9-B of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957 (67 of 1957), established a District Mineral Foundation in every District in the Country affected by mining related operations, which largely affect the lives and livelihoods of the people in the riverbed and very remote areas of the country and vulnerable sections of population. Therefore, it is necessary that special care and attention is devoted, in an organized and structured manner



so as to ensure that these areas and affected persons are benefitted by the mineral wealth in their regions and are empowered to improve their standard of living. Hence, the Central Government, on a careful consideration of the matter, is of the opinion that the national interest requires that all District Mineral Foundations should implement a development programme for the mining affected areas that includes a certain minimum provision for the social and infrastructure needs of the population in the area and the Central Government has accordingly, framed Pradhan Mantri Khaniji Kshetra Kalyan Yojana to be implemented by the District Mineral Foundations from the funds accruing to them in terms of the MMDR Act, 1957.

6. Accordingly, Tamil Nadu District Mineral Foundation Rules, 2017, was framed and District Mineral Foundation Trust was formed to collect contributions for the development activities in the illegal sand mining affected areas. The District Mineral Foundation Trust shall consist of; (i) District Collector - Chairperson; (ii) District Revenue Officer- Vice-Chairperson; (iii) Deputy Director or Assistant Director of Geology and Mining - Convener; (iv) Project Director, Panchayat Development; (v) Personal Assistant to Collector, Panchayat Development (PAPD); (vi) Deputy Director or Assistant Director, Rural Development Department; (vii) Deputy Director or Assistant Director, Adi Dravidar and Tribal Welfare Department; (viii) Environment Engineer, Tamil Nadu Pollution Control Board; (ix) District Forest Officer; (x) Chief Engineer, Public Works Department; and (xi) Assistant Director of Survey and Centres and the District Collector can nominate two other members as Ex-officio members of the Governing Council.

7. In this context, it is relevant to extract below Rule 4 of the Tamil Nadu District Mineral Foundation Rules, 2017.

4. Funds of the Trust .- The funds of the Trust shall comprise of initial deposit of Rs.1,000/- (Rupees one thousand only) made by the Government and include -

(a) payment to the Trust made by the lessees of major mineral leases at the rates specified by the Central Government;

(b) payment to the Trust made by the lessees of minor mineral leases at the rates specified in these rules;

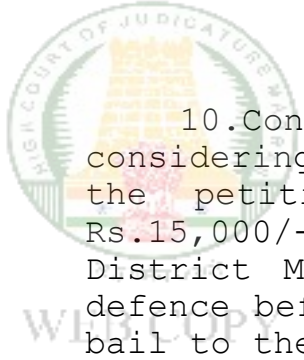
(c) all receipts and incomes including interest accrued on the deposits made in the bank; and

(d) voluntary contributions, if any, received by the Trust from any person or Organisation.''

8. In view of Rule 4 of the Tamil Nadu District Mineral Foundation Rules, 2017, this Court directs the petitioner to deposit a sum of Rs.15,000/- [Rupees Fifteen Thousand only] to the credit of concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

9. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

<https://hcservices.ecourts.gov.in/hcservices/>



10. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel appearing for the petitioner that the petitioner would deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of concerned District Mineral Foundation Trust Fund, without prejudice to his defence before the Trial Court, I am inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of 15 days from the date on which the order copy is made ready, before the learned Judicial Magistrate No.V, Tirunelveli, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of concerned District Mineral Foundation Trust Fund, without prejudice to his defence before the Trial Court and thereafter, the learned Magistrate shall accept the sureties furnished by the petitioner;

[b] the petitioner shall report before the respondent Police daily between 10.00 a.m. and 11.00 a.m., for a period of two weeks;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not commit any offence while on bail;

[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/-
30/10/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE JUDICIAL MAGISTRATE NO.V, TIRUNELVELI.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3. THE INSPECTOR OF POLICE,
MUNEERPALLAM POLICE STATION, TIRUNELVELI DISTRICT.

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

COPY TO:-

1. THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST FUND,
TIRUNELVELI DISTRICT.

ORDER IN
CRL OP(MD) No.14506 of 2017
Date :30/10/2017

MS/PM-PN/SAR.4/02.11.2017/4P.6C