



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

Tuesday, the Thirty First day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.14674 of 2017

1 BALAN
2 MOORTHY
3 ESAKKIMUTHU @ KARUNGULATHAN
4 ESAKKIMUTHU ... PETITIONERS / ACCUSED NO.1,5,6 & 7

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
THISAIYANVILAI POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.319/2017 ... RESPONDENT / COMPLAINANT

For Petitioners : M/S.T.A.EBENEZER Advocate

For Respondent : MR.K.ANBARASAN Govt. Advocate (Crl. Side)

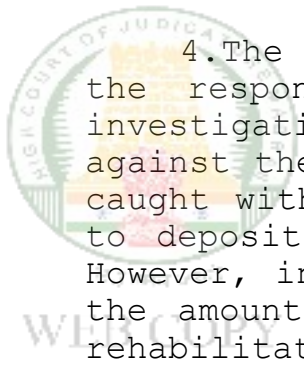
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners/A1, A5, A6 and A7, who were arrested and remanded to judicial custody on 18.10.2017 by the respondent Police for the offences punishable under Section 379 I.P.C., and Section 21 (1) MMDR Act read with Section 3 of TNPPDL Act, in Crime No.319 of 2017 on the file of the respondent Police, seek bail.

2.The case of the prosecution is that on 15.10.2017, the petitioners along with other accused persons illegally transported one unit of river sand through the vehicle belongs to the first petitioner bearing Registration No.TN-72-AU-6844, without valid licence and when they saw the police personnel, they increased the speed of the vehicle and dashed against the electric pole and caused damage to three electric pole worth about Rs.20,000/-. Subsequently, the respondent police seized the vehicle with sand and thereafter, a case has been registered against the petitioners for the above said offences.

3.The learned counsel for the petitioner would submit that the petitioners are innocent and they did not commit any offence as alleged by prosecution and prays for bail.



4. The learned Government Advocate (Criminal side) appearing for the respondent Police, on instructions, would submit that the investigation is still pending and three previous cases are pending against the petitioners. He further submitted that if the person is caught with illegal sand in the mining area, he has to be directed to deposit the conditional amount to the credit of Crime number. However, in view of formation of District Mineral Foundation Trust, the amount may be deposited to the credit of the said Trust for rehabilitation in the illegal sand mining affected areas.

5. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners, who is having three previous cases, may be directed to deposit a sum of Rs.40,000/- [Rupees Forty Thousand only] to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions.

6. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate (Crl.side), I am inclined to grant bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail with certain conditions. Accordingly, the petitioners are ordered to be released on bail, subject to the following conditions:

(i) the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each, with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Nanguneri, Tirunelveli District;

(ii) the petitioners shall deposit a sum of Rs.40,000/- (Rupees Forty Thousand only) to the credit of the concerned District Mineral Foundation Trust Fund, without prejudice to their defence before the Trial Court and thereafter, the learned Magistrate shall accept the sureties furnished by the petitioners;

(iii) the petitioners shall report before the respondent Police daily between 10.00 a.m. and 11.00 a.m., for a period of two weeks;

(iv) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(v) the petitioners shall not abscond either during investigation or trial;

(vi) the petitioners shall not commit any offence while on bail;

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

(vii) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is



entitled to take appropriate action against the petitioners in accordance with law and the bail granted stands cancelled automatically.

sd/-
31/10/2017

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/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE,
NANGUNERI, TIRUNELVELI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
- 4 THE INSPECTOR OF POLICE,
THISAIYANVILAI POLICE STATION, TIRUNELVELI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE OFFICER IN CHARGE,
DISTRICT MINERAL FOUNDATION TRUST FUND, TIRUNELVELI.

+1. CC to M/S.T.A.EBENEZER Advocate SR.No.33509

ORDER
IN
CRL OP(MD) No.14674 of 2017
Date :31/10/2017

MKV-PM-PN-SAR 2/1.11.2017/3P-8C