



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

Friday, the Tenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.15375 of 2017

1 SUBBIAH
2 ESAKKI MUTHU

... PETITIONERS/ACCUSED No.1 & 3

Vs

THE INSPECTOR OF POLICE,
NANGUNERI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.292 OF 2017)

... RESPONDENT/COMPLAINANT

For Petitioners : M/S.P.R.PRITHIVIRAJ Advocate

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

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

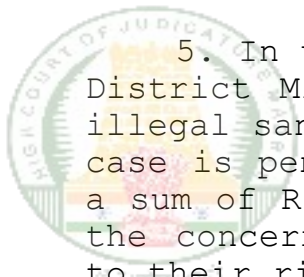
ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused No.1 & 3, apprehends arrest at the hands of the respondent Police for the offence punishable under Section 379 of I.P.C., r/w 21(1)(iv) of Mines & Minerals (Development & Regulation) Act, 1957 in Crime No.292 of 2017 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners committed the act of sand theft. Hence, a case has been registered against the petitioners for the above said offence.

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

4.The learned Government Advocate (Criminal side) appearing for the respondent Police, on instructions, would submit that the investigation is still pending and no previous case is 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 no case is pending against the petitioners, may be directed to deposit a sum of Rs.20,000/- [Rupees Twenty Thousand only] to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions.

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6. Merely, because the petitioners have 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.

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 anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail, subject to the following conditions:

(i) the petitioners shall deposit a sum of Rs.20,000/- (Rupees Twenty 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;

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

(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 make himself available for interrogation including custodial interrogation as and when required by the investigation officer;

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

(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/-
10/11/2017

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TO

1 THE JUDICIAL MAGISTRATE, NANGUNERI

2 THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT

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

4 THE DISTRICT MINERAL FOUNDATION TRUST,
TIRUNELVELI DISTRICT

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

+1. CC to M/S.P.R.PRITHIVIRAJ Advocate SR.No.34231

ORDER

IN

CRL OP(MD) No.15375 of 2017

Date :10/11/2017

PK/CM/SAR-1/15.11.2017 : 3P/7C