



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

Tuesday, the Twelfth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.17082 of 2017

T.SUDARSAN

... PETITIONER / 1st ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
SOUTH THAMARAI KULAM POLICE STATION,
KANYAKUMARI DISTRICT
(CRIME NO. 238/2017)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.THIAGESWARAN for M/S.M.P.SENTHIL Advocate

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

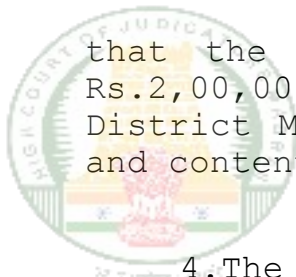
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/Accused No.1, who was arrested and remanded to judicial custody on 21.11.2017 for the alleged offences punishable under Sections 279, 379 I.P.C., & Section 21(1) Mines and Minerals Development Regulation Act, 1957 in Crime No.238 of 2017, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 18.11.2017, based on the secret information, the Law Enforcing Agency conducted the vehicle checkup at Agasteeswaram Junction, one Selvendran drove the lorry bearing Registration No.TN-74-F-7165 loaded with sand with rash and negligent manner and on seeing the informant, he stopped the lorry and ran away. The accused no.3 is the cleaner of the lorry and the respondent police enquired the accused no.3, he confessed that only on the instruction of the petitioner/A1, he transported the sand. Based on that, the petitioner/A1 was arrested and remanded to the judicial custody.

3.The learned counsel for the petitioner submitted that the petitioner is the owner of the said lorry and other accused persons, who were arrayed as accused nos.2 and 3 are the driver and cleaner of the lorry. He further submitted that the petitioner operating the lorry with proper license from the licensing authority and he did not commit any offence as alleged by the prosecution. If at all any offence, is only by the driver and cleaner of the lorry without knowledge of the petitioner/A1 herein. However, he fairly conceded



that the petitioner is ready and willing to deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

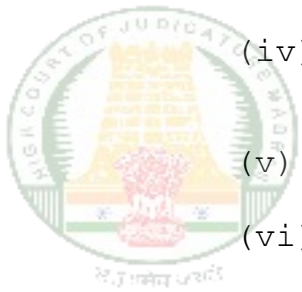
4.The learned Government Advocate (Criminal side) appearing for the State submitted that the petitioner herein is the owner of the lorry. There are two previous cases were pending against him and four unit of sand was illegally transported from Trichy to Kanyakumari, due to that, he was arrested on 20.11.2017. He further requested the Court to impose some stringent condition against the petitioner/A1 to prevent the petitioner to commit further sand theft. 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 and also considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

6.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.

7. Considering the facts and circumstances of the case and the stage of investigation and also considering the submission made by the learned Government Advocate (Criminal side), I am inclined to grant bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail, subject to the following certain conditions;

- (i) the petitioner is directed to deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate No.III, Nagercoil shall accept the sureties furnished by the petitioner.
- (ii) 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 learned Judicial Magistrate No.III, Nagercoil;
- (iii) the petitioner shall report before the respondent police, daily between 10.00 a.m., to 11.00 a.m., until further orders;



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- (iv) the petitioner shall not tamper with evidence or witness either during investigation or trial;
- (v) the petitioner shall not abscond either during investigation or trial;
- (vi) the petitioner shall make himself available for interrogation including custodial interrogation as and when required by the investigation officer;
- (vii) the petitioner shall not commit any offence while on bail;
- (viii) 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 and the bail granted stands cancelled automatically.

sd/-

12/12/2017

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.III, NAGERCOIL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE OFFICER IN CHARGE,
DISTRICT JAIL, NAGERCOIL.
- 4 THE INSPECTOR OF POLICE,
SOUTH THAMARAI KULAM POLICE STATION,
KANYAKUMARI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE OFFICER IN CHARGE,
DISTRICT MINERAL FOUNDATION TRUST, KANYAKUMARI.

+1. CC to M/S.M.P.SENTHIL Advocate SR.No.36015

ORDER IN

CRL OP (MD) No.17082 of 2017

Date :12/12/2017