

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12031 OF 2017

ORDER:

This Criminal Petition is filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioner-A.1 in crime No.345 of 2017 of Chillakur police station, Sri Potti Sri Ramulu Nellore District registered for the offences punishable under Sections 379, 186 read with 34 IPC, 3 read with 180, 181 of the Motor Vehicles Act, 1988 and 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957 (for short, 'MM (D&R) Act').

2. Heard learned counsel for the petitioner-A.1, the learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioner-A.1 would submit that the petitioner-A.1 is an innocent person and falsely implicated in this case; that the petitioner-A.1 has nothing to do with the alleged offences; that the petitioner-A.1 got licence dated 17.11.2017 to transport silica sand. It is his further contention that there is a special Enactment to punish illegal transportation of silica sand i.e. MM (D&R) Act, and hence, the petitioner-A.1 cannot be proceeded for the offence punishable under Section 379 IPC and ultimately, he prays to allow the Criminal Petition.

4. On the other hand, the learned Additional Public Prosecutor opposed the grant of bail to the petitioner-A.1.

5. The material on record reveals that on 21.11.2017 at about 18.00 hours, one Raju Madhavareddy (A.3) was found transporting silica sand by lorry bearing Registration No.AP 26TD 4757. The same was stopped by

police and the silica sand was seized under cover of a panchanama. He confessed that he has no license to drive lorry and that there was no license or permit to transport silica sand and that the said lorry belongs to petitioner-A.1.

6. Learned counsel for the petitioner-A.1 produced copy of permit dated 17.11.2017 to transport silica sand. However, this permit is valid only for one day i.e. on the day it was given. As per the Regulations, if, by any reason, silica sand was not transported pursuant to license on the said day, a person has to either renew the license or has to obtain a fresh license. Hence, it cannot be said that the petitioner-A.1 had permit to transport silica sand on 21.11.2017.

7. It is contended on behalf of the prosecution that the petitioner-A.1 has been collecting silica sand from the villages situated in Chillakur Mandal and transporting the same to Chennai, and in that process, the subject lorry was caught and seized. The same is supported by the investigation made in this case. Driver of the lorry Raju Madhavareddy (A.3) also confessed the same.

8. As per the records, there is no valid permit to transport silica sand on 21.11.2017. It is also not in dispute that the lorry bearing Registration No.AP26TD 4757 belongs to the petitioner herein, who is A.1 in the crime. In the First Information Report also, name of the petitioner-A.1 is found. Investigation reveals that the petitioner-A.1 has been indulging in illegal transportation of silica sand from Chillakur mandal to Chennai and making huge money. When the mineral is transported without permission of the authorities concerned, certainly, an element of theft can be culled out from the said act. No

doubt, there is also provision under the MM (D&R) Act, to take care of the said illegal transportation. Even then, it cannot be said that no *prima facie* case is constituted for the offence punishable under Section 379 IPC. It is a matter of investigation. It cannot be said that the petitioner is innocent and falsely implicated in this case. Release of the petitioner on bail under Section 438 Cr.P.C. would hinder the investigation. There is every possibility of causing disappearance of the material evidence. The Criminal Petition is devoid of merit and liable to be dismissed.

9. In the result, the Criminal Petition is dismissed.

DATED: 18.12.2017
DRK

DR.SHAMEEM AKTHER, J



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18.12.2017

DRK