

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixth day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.21649 of 2018

SEENU @ SEENUVASAN, [PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE SUB INSPECTOR OF POLICE,
CHENGAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.
CR.NO.767 OF 2018.

For Petitioner : M/S.R.BALAKRISHNAN Advocate

For Respondent : MR. C.IYYAPPARAJ, Additional Public Prosecutor

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 Sections 379, 430 of IPC read with Section 21(5) of Tamil Nadu Mines and Minerals Act and Section 3 (2) of PPD Act in Crime No.767 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had illegally transported one unit of sand in his tractor.

3. The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. However, on instruction he would further submit that the petitioner is ready to deposit any amount to Mineral Foundation Trust without prejudice to his rights.

4. The learned Additional Public Prosecutor appearing for the State submitted that the vehicle was seized by the respondent police and there is no previous case pending against the petitioner. 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 in each district, the amount may be deposited to the credit of the said Trust for rehabilitation in the areas affected by illegal sand mining.

5. In view of the rehabilitation undertaken by the State Government 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 are directed to make a non refundable deposit of Rs.15,000/- (Rupees fifteen thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions. This amount so deposited shall be utilised by the Trust for rehabilitation works.

6. It is made clear that the deposit of the amount by the petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

7. Considering the facts and circumstances of the case and also considering the submission made by the learned Additional Public Prosecutor, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Chengam, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled.

(ii) the petitioner shall make a non refundable deposit of Rs.15,000/- (Rupees fifteen thousand only) by way of demand draft to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to their defence before the trial Court and the receipt/challan shall be produced before the learned Magistrate and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;

(iii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iv) the petitioner shall report before the respondent police daily at 10.30.a.m. for a period of four weeks and thereafter, as and when required for interrogation.

(v) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(vi) the petitioner shall not abscond either during

(vii) 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]**;

(viii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
06/09/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
CHENGAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
CHENGAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THIRUVANNAMALAI.

+1 CC to M/S.R.BALAKRISHNAN Advocate on payment of necessary charges SR.NO.17004

CRL OP.21649/2018

Date :06/09/2018

TA-14/09/2018