IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Thirty First day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice N. SATHISH KUMAR

CRIMINAL ORIGINAL PETITION No.14532 of 2018

PRABHAKARAN [PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE SUB INSPECTOR OF POLICE,
SALAVAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT
CR.NO.84 OF 2018.

For Petitioner : M/S.G.PUNNIAKOTI Advocate

For Respondent : M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioner seeks anticipatory bail in Crime No.84 of 2018 registered by the respondent for the offence punishable under Sections 379, 430 of IPC.

2.The case of the prosecution is that the petitioner was found in illegal transportation of 3 units of sand without any valid licence or permit.

3.The learned counsel for the petitioner submitted that the petitioner has not committed any offences as alleged by the prosecution and that if the Court directs, the petitioner are ready and willing to make non-refundable deposit of Rs.15,000/-.

4.The learned Additional Public Prosecutor appearing for the State submitted that the vehicle involved in the sand theft 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 illegal sand mining affected areas.

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) each by way of Demand Draft in favour of the Chairman, District Mineral Foundation Trust of the concerned District, without prejudice to his rights and contentions.

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 District Munsiff-cum-Judicial Magistrate, Uthiramerur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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) the petitioner shall make a non refundable deposit of Rs.15,000/- (Rupees fifteen Thousand only) by way of Demand Draft in favour of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) 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].**

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

-sd/-
31/05/2018

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 DISTRICT MUNSIFF-CUM-
JUDICIAL MAGISTRATE, UTHIRAMERUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET. [FOR INFORMATION]

3 THE SUB INSPECTOR OF POLICE,
SALAVAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1CC to M/S.G.PUNNIAKOTI Advocate on payment of necessary charges in SR.NO. 9736

CRL OP.14532/2018

Date :31/05/2018

MLT-05/06/2018