

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Second day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.16701 of 2018

1 G.GOTHANDAN

[PETITIONERS / ACCUSED]

2 JUMAID AHAMED NOOR AHAMED

Vs

THE STATE REP BY ITS,

[RESPONDENT]

THE INSPECTOR OF POLICE,

WALAJAHBATH POLICE STATION,

KANCHIPURAM DISTRICT

CR.NO.314 OF 2018.

For Petitioner : M/S.G.M.SANKAR Advocate

For Respondent : MR.M.MOHAMED RIYAZ,ADDL.PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners seek anticipatory bail in Crime No.314 of 2018 registered by the respondent police for the offence punishable under Sections 379 and 430 of IPC and Section 21(1) of M.M.Act r/w 3(1)(x) of TNPPDL Act.

2. The case of the prosecution is that 25 Kilo of sand had been illegally transported by the petitioners.

3. The learned counsel for the petitioners submitted that the petitioners are innocent and they have not committed any offences as alleged by the prosecution.

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 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 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 petitioners, this Court is of the opinion that each of the petitioner is directed to make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust, 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 petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-II, Kanchipuram, on condition that each of 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) if the petitioners 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) each of the petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust Fund, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioners;

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

(iv) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioners shall not abscond either during investigation or trial.

(vi) 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 as if the conditions have been imposed and the petitioners 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]**.

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

-sd/-

02/07/2018

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,
NO.II, KANCHIPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
WALAJAHBATH POLICE STATION,
KANCHIPURAM DISTRICT

5 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST FUND,
KANCHIPURAM

+1 CC to M/S.G.M.SANKAR Advocate on payment of necessary charges SR.NO. 12151

CRL OP.16701/2018

Date :02/07/2018

RD 09/07/2018