

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighteenth day of July Two Thousand Eighteen

PRESENT

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

CRIMINAL ORIGINAL PETITION No.17084 of 2018

1 BAKIYARAJ,
2 PANDIAN,

[PETITIONERS / ACCUSED]

Vs

THE STATE REP BY ITS,
THE STATION HOUSE OFFICE,
ARAKKONAM TALUK POLICE STATION,
VELLORE DISTRICT
CR.NO.242 OF 2018.

[RESPONDENT]

For Petitioner : M/S.D.DAYALAN Advocate

For Respondent : MR. C.IYYAPPARAJ 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.242 of 2018 registered by the respondent police for the offence punishable under Sections 353, 379 and 430 of IPC.

2. The case of the prosecution as per the defacto complainant one Ramamoorthy, Irrigation Assistant, P.W.D., Arakkonam, Vellore District, is that on 19.06.2018, he had received the information that the petitioner was involved in illicit theft of river sand, when he had questioned the petitioner, the petitioner abused him with filthy language and prevented him from discharging his official duty and also taken away the sand without stopping the vehicle.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case.

4.The learned Additional Public Prosecutor appearing for the State would submit that it is a case, where the petitioners abused the defacto complainant, when he attempted to prevent them from committing theft of sand and taken away the tractor along with sand. He would submit that one unit of sand was transported by these petitioners and that 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 work 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 petitioners, this Court is of the opinion that the 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. 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 petitioners 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, Arakkonam, 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 fail to surrender before the concerned Magistrate within a period of 15 days, 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 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 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
18/07/2018

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,
ARAKKONAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP BY ITS,
THE STATION HOUSE OFFICE,
ARAKKONAM TALUK POLICE STATION,
VELLORE DISTRICT

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

+1 CC to M/S.D.DAYALAN Advocate on payment of necessary charges-
Sr.13302

CRL OP.17084/2018

Date :18/07/2018

ths : 24.07.2018