

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Sixth day of July Two Thousand Eighteen

PRESENT

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

CRIMINAL ORIGINAL PETITION No.18702 of 2018

1 RAMU, [PETITIONERS / ACCUSED]
2 VEERARAGHAVAN,
3 RAMAKRISHNAN,
4 RAMACHANDRAN,
5 SATHYA,
6 PARAMASIVAM,
7 AYYANAR,

Vs

THE INSPECTOR OF POLICE [RESPONDENT]
E-2, THIRUKAZHUKUNDRAM POLICE STATION,
KANCHEEPURAM DISTRICT.
CR.NO.180 OF 2018.

For Petitioner : M/S.S.V.D.RAJENDRA PRASAD Advocate

For Respondent : MR. M.MOHAMED RIYAZ, Additional 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.180 of 2018 registered by the respondent police for the offence punishable under Sections 379, 430 and 447 of IPC.

2. The case of the prosecution as per the defacto complainant, who is the Village Administrative Officer, is that the petitioners illegally encroached 20 cents of Meykkal Poramboke land and were running brick chambers and were manufacturing bricks by illegally extracting sand and water from the said land for manufacturing bricks.

3. The learned counsel for the petitioners submitted that the petitioners have been running the brick klinn after obtaining the suitable permission from the Government, whereas, a false complaint has been foisted against them.

4. The learned Additional Public Prosecutor appearing for the State would submit that the petitioners were illegally running the bricks manufacturing unit and they were also illegally extracting sand and water from the Government land and thereby, caused loss to the Government to the tune of Rs.1,23,000/-. He would submit that by illegally committing theft of minerals and extraction of water the petitioners have caused environmental degradation. However, he would submit that the petitioners have no previous case against them. 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 petitioner, this Court is of the opinion that the petitioners are directed to make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to their 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 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, Thirukazhukkundram, 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.20,000/- (Rupees Twenty Thousand only) each 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 thereafter, the learned Judicial Magistrate concerned 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/-
26/07/2018

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,
THIRUKAZHUKKUNDRAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
E-2, THIRUKAZHUKKUNDRAM POLICE STATION,
KANCHEEPURAM DISTRICT,

<https://mcservices.ecourts.gov.in/mcservices/>

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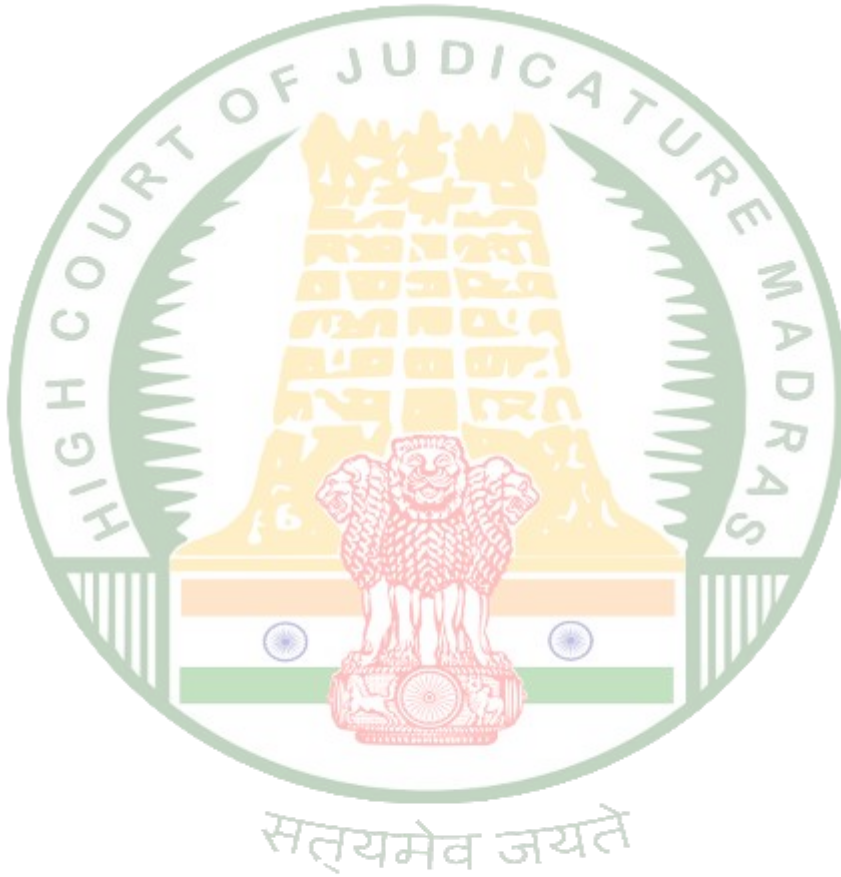
5 THE CHAIRMAN DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
CHENGALPATTU

+1 CC to M/S.S.V.D.RAJENDRA PRASAD Advocate on payment of
necessary charges SR.NO. 13998

CRL OP.18702/2018

Date :26/07/2018

TA-02/08/2018



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