

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.18715 of 2018

1.MADHAVAN

[PETITIONERS / ACCUSED]

2 KARTHI

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE
PERALAM TOWN POLICE STATION,
THIRUVARUR DISTRICT,
CR.NO.295 OF 2018.

[RESPONDENT]

For Petitioner : M/S.T.MURUGANANTHAM 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, who apprehend arrest at the hands of the respondent police for the offence punishable under Section 379 and 430 of IPC r/w 21(iv) of Mines and Minerals Act, in Crime No.295 of 2018, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported three units of sand.

3. The learned counsel for the petitioners submitted that the petitioners are in no way connected in this case and they had not committed any offences as alleged by the prosecution.

4. The learned Additional Public Prosecutor appearing for the State would submit that the vehicle was seized by the respondent police and that in respect of the first petitioner, there are three previous cases against him and in respect of the second petitioner, there is no previous case pending against him. 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 petitioner is 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 that in respect of the first petitioner, there are three previous cases against him, this Court is not inclined to grant anticipatory bail to the first petitioner. Accordingly, this petition is dismissed in respect of the first petitioner. Taking into consideration the submission of the learned Additional Public Prosecutor that there is no previous case against the second petitioner, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

8. Accordingly, the second 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, Nanilam, on condition that the second 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 second petitioner fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the second petitioner shall make a non refundable deposit of Rs.15,000/- (Rupees Fifteen 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 petitioner;

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

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

(v) the second petitioner 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 second petitioner in accordance with law as if the conditions have been imposed and the second petitioner is 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/-
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
NANILAM

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
PERALAM TOWN POLICE STATION,
THIRUVARUR DISTRICT

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

+1CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary charges SR.NO. 14100

CRL OP.18715/2018

Date :26/07/2018

CM-31/07/2018