

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventh day of August Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.19568 of 2018

ROBERT

[PETITIONER / ACCUSED]

Vs

STATE REP. BY

[RESPONDENT]

THE SUB INSPECTOR OF POLICE,
THIRUVALLUR TALUK POLICE STATION,
THIRUVALLUR DISTRICT.
CR.NO. 339 OF 2018.

For Petitioner : M/S.R.SASIKUMAR 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 :-

Apprehending arrest at the hands of the respondent police for the alleged offences punishable under Sections 379, 430 IPC r/w Section 21(1) of Mines and Minerals Act in Crime No.339 of 2018 on the file of the respondent police, the petitioner has come forward with this petition seeking anticipatory bail.

2.It is the case of the prosecution that the petitioner transported one unit of sand in a Tractor without valid license.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the petitioner did not commit any offence as alleged by the prosecution.

4.The learned Additional Public Prosecutor would submit that the petitioner transported one unit sand illegally without valid license. The entire case property has been seized by the respondent police and the investigation is pending. Further, he would submit that the petitioner is having one previous case. 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 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.10,000/- (Rupees Ten 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, 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 Judicial Magistrate No.I, Thiruvallur, 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) if the petitioner 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) the petitioner shall make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) through D.D. 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 after perusing the challan/receipt by the petitioner;

(iii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

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

(v) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(vi) the petitioner shall not abscond either during investigation or trial;

(vii) 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]**;

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

-sd/-
07/08/2018

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.I, THIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE SUB INSPECTOR OF POLICE,
THIRUVALLUR TALUK POLICE STATION,
THIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges in SR.NO. 14691

CRL OP.19568/2018

Date :07/08/2018