

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Sixteenth day of October Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL ORIGINAL PETITION No.24099 of 2018

1 PRASANTH

[PETITIONERS / ACCUSED]

2 RABORT

Vs

STATE REP. BY

[RESPONDENT]

THE SUB INSPECTOR OF POLICE,
THIRUVALLUR TALUK POLICE STATION,
THIRUVALLUR DISTRICT
CR.NO.428 OF 2018.

For Petitioner : M/S.R.SASIKUMAR Advocate

For Respondent : MR. KRITIKA KAMAL P, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend the arrest for the offences punishable under Sections 430, 379 IPC r/w 21(1) Mines and Minerals Act in Crime No.428 of 2018 on the file of the respondent police, seek anticipatory bail.

2. There are totally 6 accused in this case and the petitioners are arrayed as A1 and A6. The case of the prosecution is that, when the respondent police and his subordinates were conducting raid for prohibition of sand theft, the petitioners were found illegally transporting one unit of river sand in a Mini Van. The respondent police seized the vehicle cart and found one unit of sand. Hence, a case has been registered by the respondent police.

3.The learned counsel for the petitioner submitted that the petitioners did not commit any offence as alleged by the prosecution and they have been falsely implicated in this case. However, on instructions, he would further submit that the petitioners are ready to deposit any amount to the District Mineral Foundation Trust without prejudice to their rights and prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the State submitted that the first petitioner/A1 is the owner of the vehicle and the second petitioner/A6 is the load man. She would submit that one unit of river sand along with vehicle was seized by the respondent police and there are three previous cases pending against the first petitioner/A1 and there are four previous cases pending against the second petitioner/A6. She further submitted that, if any 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 petitioner is directed to make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) by way of Demand Draft drawn in favour 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 Government Advocate (Crl. Side), I am not inclined to grant anticipatory bail to the first petitioner. Hence, this petition is dismissed insofar as the first petitioner is concerned. However, I am 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 No.I, Thiruvallur, 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, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) if the second petitioner fails to surrender before the concerned Magistrate/concerned Court within a period of 15 days, this order shall stand automatically cancelled;

(b) that the second petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) by way of Demand Draft drawn in favour 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 shall accept the sureties furnished by the petitioner.

(c) the second petitioner and 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.

(d) the second petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when necessary.

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

(f) the second petitioner shall not abscond either during investigation or trial.

(g) 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]**.

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

-sd/-

16/10/2018

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

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

+1CC to M/S.R.SASIKUMAR Advocate on payment of necessary
charges SR NO.19623

CRL OP.24099/2018

Date :16/10/2018

MK:17/10/2018



WEB COPY