

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.24561 of 2018

J.SENTHIL KUMAR

[PETITIONER / ACCUSED]

Vs

STATE REP. BY

[RESPONDENT]

THE INSPECTOR OF POLICE, E-5,
SHOLAVARAM POLICE STATION,
SHOLAVARAM, TIRUVALLUR DISTRICT.
(CR.NO.397/2018)

For Petitioner : M/S.D.SAM NANDHAKUMAR Advocate

For Respondent : M/S.KRITIKA KAMAL.P, GOVERNMENT ADVOCATE [CRL.SIDE]

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest on the hands of the respondent police, for the offence under Sections 379 and 430 of IPC in Crime No.397 of 2018 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that, when the respondent police and his subordinates were conducting raid for prohibition of sand theft at Pudhur lake, the petitioner was found illegally transporting two units of river sand in a vehicle. The respondent police seized the vehicle and found two units of sand. Hence, a case has been registered by the respondent police.

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

4.The learned Additional Public Prosecutor appearing for the State submitted that two units of river sand along with bullock cart was seized by the respondent police and there is no previous cases pending against the petitioner. He 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 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) 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 Additional Public Prosecutor, I am inclined to grant 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-II, Ponneri, 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, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) if the 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 petitioner shall make a non refundable deposit of Rs.10,000/- (Rupees Ten 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 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 petitioner shall report before the respondent police

daily at 10.30.a.m., for a period of four weeks and thereafter as and when necessary.

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

(f) the 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 petitioner in accordance with law as if the conditions have been imposed and the 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.II, PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
E-5, SHOLAVARAM POLICE STATION,
SHOLAVARAM, TIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1 CC to M/S.D.SAM NANDHAKUMAR Advocate on payment of necessary charges in SR.NO.19534

CRL OP.24561/2018

Date :16/10/2018

MLT-17/10/2018

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