

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.24571 of 2018

1 P.RAVI
2 P.RAMESH

[PETITIONERS / ACCUSED]

Vs

STATE REP. BY ITS,
THE INSPECTOR OF POLICE,
NALLIPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.
(CR.NO.434/2018)

[RESPONDENT]

For Petitioner : M/S.W.CAMYLES GANDHI Advocate

For Respondent : MRS.KARTHIKA KAMAL, Govt. Advocate (CrI. Side)

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest on the hands of the respondent police, for the offence under Sections 379 of IPC and 21 (1) of Mines & Minerals (Development & Regulation) Act, 1957 in Crime No.434 of 2018 on the file of the respondent police, seek 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, the petitioners were found illegally transporting three units of river sand in a vehicle. The respondent police seized the vehicle and found three units of sand. Hence, a case has been registered by the respondent police.

3. The learned counsel for the petitioners submitted that the first petitioner is the owner of the lorry and the second petitioner is his brother. He would submit that the driver of the lorry has already been arrested in this case and 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 petitioners.

4.The learned Additional Public Prosecutor appearing for the State submitted that three units of river sand was seized by the respondent police from the vehicle belongs to the first 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 petitioners, this Court is of the opinion that the first petitioner is directed to make a non refundable deposit of Rs.15,000/- (Rupees Fifteen 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 petitioners 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 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-I, Namakkal, 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, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

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

(b) the first petitioner shall make a non refundable deposit of Rs.15,000/- (Rupees Fifteen 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 petitioners.

(c) the petitioners 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) each of 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 petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NALLIPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.

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

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

+1 CC to M/S.W.CAMYLES GANDHI Advocate on payment of necessary
charges SR.NO. 19569

CRL OP.24571/2018

Date :16/10/2018

TA-17/10/2018



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