



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twelfth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21964 of 2018

BASKAR

... PETITIONER / ACCUSED No.2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
MARUVUR POLICE STATION,
THIRUVAIYARU TALUK,
THANJAVUR DISTRICT
Crime No. 58 of 2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.T.INDRACHITHU Advocate

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner was arrested and remanded to judicial custody since 17.11.2018 for the offence punishable under Section 379 IPC r/w 21(1) of Mines and Minerals Act in Crime No.58 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is said to have illegally transported two units of river sand. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has nothing to do with the alleged occurrence.

4.The learned Additional Public Prosecutor appearing for the State submitted that there is no previous case pending against the petitioner. He further submitted that if the persons 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 illegal sand mining affected areas.

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.5,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

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 bail.

7. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on her executing 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 learned Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30.a.m., until further orders.

[b] the petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) to the credit 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 admit the sureties furnished by the petitioner.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] 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].



[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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/ TRUE COPY /

sd/-
12/12/2018

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE,
THIRUVAIYARU, THANJAVUR DISTRICT.
 2. THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
 3. THE INSPECTOR OF POLICE
MARUVUR POLICE STATION,
THIRUVAIYARU TALUK, THANJAVUR DISTRICT.
 4. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
 5. THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
- +1. CC to Mr.T.INDRACHITHU Advocate SR.No.23129

ORDER
IN
CRL OP(MD) No.21964 of 2018
Date :12/12/2018

TK/PN.AC/SAR-1/12.12.2018/3P/8C