



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

Tuesday, the Twenty Seventh day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.20227 of 2018

DHAVAMURUGAM

... PETITIONER /1st ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
SAYALKUDI POLICE STATION,
RAMNAD DISTRICT.
CRIME NO.118/2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.D.VENKATESH Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate (Crl.Side)

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 24.10.2018 for the offences punishable under Sections 341, 353, 332, 379 and 307 IPC and Section 3(1) of TNPPDL Act and Section 21(1) of Mines and Minerals (Development and Regulations) Act, in Crime No.118 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the on 28.07.2018, when the defacto complainant conducted a raid along with his higher officials, petitioner had illegally transported sand by using Tractor without any permission. Hence, he was arrested and remanded to judicial custody.

3.The learned counsel for the petitioner submitted that the petitioner has not committed any offences as alleged by the prosecution and he has been falsely implicated in this case.

4.The learned Government Advocate (Crl.side) appearing for the State submitted that there are no previous case pending against the petitioner. He further submitted that if the persons is caught with illegal sand in the mining area, they have 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.10,000/- (Rupees Ten thousand only)** to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

6. Considering the facts and circumstances of the case and considering the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his 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, Mudukulathur and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required.

[b] the petitioner shall make a non refundable deposit of **Rs.10,000/- (Rupees Ten 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.

sd/-

27/11/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE,
MUDUKULATHUR.

2 DO THROUGH THE CHIEF
JUDICIAL MAGISTRATE, RAMANATHAPURAM.

3 THE INSPECTOR OF POLICE,
SAYALKUDI POLICE STATION,
RAMNAD DISTRICT.

4 THE OFFICER INCHARGE,
DISTRICT JAIL, RAMNAD.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.D.VENKATESH Advocate SR.No. 22118

COPY TO:
THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
RAMANATHAPURAM DISTRICT.

ORDER
IN
CRL OP(MD) No.20227 of 2018
Date :27/11/2018

JM/VR MMS/SAR 1/27.11.2018/3P/8C