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

Wednesday, the Nineteenth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21479 of 2018

1 SIKKANTHAR
2 A.S.ARUL KUMAR ... PETITIONERS / ACCUSED **(*)NO.3** & RANK NOT KNOWN

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
PALAIANOOR POLICE STATION,
SIVAGANGAI DISTRICT.
(CRIME .NO.73/2018) ... RESPONDENT / COMPLAINANT

For Petitioners : Mr.K.ANBARASAN Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners, who apprehending arrest at the hands of the respondent police for the offence punishable under Section 21(A) of Mines and Minerals Act (Development and Regulation) Act r/w Section 379 (NP) IPC and **(*)Section 3(1) of TNPPDL Act** registered in Crime No.73 of 2018, seek anticipatory bail.

2. The case of the prosecution is that the petitioners illegally transported 1 ½ units of sand.

3.The learned counsel for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case and that therefore, they may be granted anticipatory bail. He further submits that the Second petitioner in this case has not been arrayed as accused and seeks permission of this court to withdraw the petition in respect of the second petitioner. He had also made an endorsement to that effect.

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4.The learned Government Advocate (Crl. Side) appearing for the State submitted that there is no previous case is pending against

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the petitioners. He further submitted that if the 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 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 petitioners, this Court is of the opinion that the first petitioner is directed to make a non refundable deposit of **Rs.22,500/-(Rupees Twenty Two thousand and Five hundred only)** to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions.

6. It is made clear that the deposit of the amount by the first petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the 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), this Court is inclined to grant anticipatory bail to the first petitioner with certain conditions.

8. Accordingly, the first petitioner is 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, Manamadurai, Sivagangai District, on condition that the first petitioners hall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the first petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the first petitioner shall make a non refundable deposit of **Rs.22,500/-(Rupees Twenty Two thousand and Five hundred 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 accept the sureties furnished by the petitioner;

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(iii) the first petitioner shall report before the respondent

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police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

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

(v) the first petitioner shall not abscond either during investigation or trial.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the first petitioner in accordance with law as if the conditions have been imposed and the first 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].**

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

9.This criminal original petition is dismissed as withdrawn in respect of the second petitioner.

sd/-
19/12/2018

(*)AMENDED AS PER THE ORDER OF THIS HON'ERABLE COURT MADE IN CRL MP(MD)NO.10246/2018 IN CRL OP(MD)21479/2018 DATED 17.12.2018

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

TO

1 THE JUDICIAL MAGISTRATE,
MANAMADURAI,SIVAGANGAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.

3 THE INSPECTOR OF POLICE
PALAIANOOR POLICE STATION, SIVAGANGAI DISTRICT.

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

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COPY TO

THE CHAIRMAN/DISTRICT COLLECTOR
DISTRICT MINERAL FOUNDATION TRUST,
SIVAGANGAI DISTRICT.

+1. CC to Mr.K.ANBARASAN Advocate SR.No.23708

PS/JC/SAR-4/08.01.2019/4P/7C

ORDER
IN
CRL OP(MD) No.21479 of 2018
Date :19/12/2018

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