



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

Wednesday, the Ninth day of May Two Thousand Eighteen

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) No.7721 of 2018

MURUGESH @ MURUGAN

... PETITIONER / ACCUSED No.3

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION,
MARTHANDAM, KANYAKUMARI DISTRICT.
(CR.NO.133/2018)

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.S.PALANI VELAYUTHAM Advocate

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

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

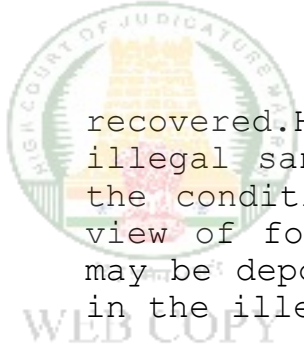
ORDER : The Court Made the following order :-

The petitioner / accused No.3, who is arrested and remanded to judicial custody on 14.04.2018 for the offences punishable under Sections 294(b), 353, 307, 379 of IPC (Sand theft) r/w.Section 21(1) Mines and Minerals Regulation and Development Act , in Crime No.133 of 2018, on the file of the respondent police ,seeks bail.

2.The case of the prosecution is that the petitioner has illegally transported one unit of river sand through tipper lorry bearing Reg.No. TN 74 B 9437.On seeing the police it was alleged that the accused persons abused the defacto complainant in filthy language Hence, a case has been registered against the petitioner for the above said offences.

3.The learned counsel for the petitioner submitted that the petitioner is a innocent person and he has not committed any offences as alleged by the prosecution and prays for bail.

4.The learned Government Advocate (Criminal side) appearing for the State submitted that the petitioners' vehicle along with sand was seized by the respondent police and there is no previous case pending against the petitioner and that the property has been



recovered. 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, 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 under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

6. Merely, because the petitioner has deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Considering the facts and circumstances of the case and also considering the submissions made by the learned Government Advocate (Crl.Side), this Court is inclined to grant bail to the petitioner. Accordingly, **the petitioner is ordered to be released on bail** subject to the following conditions:

- (i) the petitioner shall 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 learned Judicial Magistrate Court, No.I, Kulithurai, Kanyakumari District
- (ii) the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of the concerned District Mineral Foundation Trust Fund, without prejudice to his defence before the trial Court and therefore, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;
- (iii) the petitioner shall report before the respondent police, daily at 10.30 a.m until further orders.
- (iv) the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (v) the petitioner shall not abscond either during investigation or trial;
- (vi) the petitioner shall not commit any offence while on bail;
- (vii) on breach of any of the aforesaid conditions, the 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 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]**.

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sd/-
09/05/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
KULITHURAI, KANYAKUMARI DISTRICT
- 2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL
- 3 THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION, MARTHANDAM,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI
- 5 THE OFFICER INCHARGE
DISTRICT MINERAL FOUNDATION TRUST FUND,
KANYAKUMARI DISTRICT
- 6 THE OFFICER INCHARGE
SUB JAIL, KULITHURAI,
KANYAKUMARI DISTRICT

+1. CC to M/S.S.PALANI VELAYUTHAM Advocate SR.No.8292

aav

JAM/10/05/2018/ PMI/GSR/ 3p-8c

ORDER
IN
CRL OP(MD) No.7721 of 2018
Date :09/05/2018