



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

Friday, the Ninth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.18689 of 2018

DHARMAR

... PETITIONERS/ ACCUSED No. 2

Vs

STATE: INSPECTOR OF POLICE
KALAYARKOVIL POLICE STATION,
SIVAGANGAI DISTRICT
CRIME NO.571/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.V.KANNAN 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 petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 147 and 379 of IPC., Section 21(1), 21(4) of Mines & Minerals (Development and Regulation) Act, 1957 and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992, in Crime No.571 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that on 15.10.2018, when the defacto complainant was conducting usual checkup, at that time, he came to know that the petitioner along with other accused persons had illegally transported the river sand by using Tipper Lorry, bearing Registration No.TN-63-K-6399.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he is nothing todo with the alleged offence.

4. The learned Government Advocate (crl.side) appearing for the respondent, on instructions, would submit that the quantity of sand involved is three unit and the same was recovered by the



respondent Police and there is no previous case pending as against the petitioner.

5. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2012, 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.15,000/- (Rupees Fifteen Thousand Only) as non-refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

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

7. Taking note of all these aspects, this Court is inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate No.1, Sivagangai, on condition that 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 learned Magistrate concerned and on further condition that;

[a] if the petitioner failed to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the the petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand Only), as non-refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

[c] the petitioner shall report before the respondent police, as and when required, for interrogation

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

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

[f] 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]**.



[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

WEB COPY

/ TRUE COPY /

sd/-
09/11/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO I
SIVAGANGAI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
SIVAGANGAI
- 3 THE INSPECTOR OF POLICE
KALAYARKOVIL POLICE STATION,
SIVAGANGAI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

COPY TO:- THE OFFICER IN CHARGE
DISTRICT MINERAL FOUNDATION TRUST,
SIVAGANGAI DISTRICT

+1. CC to MR.V.KANNAN Advocate SR.No.21357

ORDER
IN
CRL OP(MD) No.18689 of 2018
Date :09/11/2018

MSI/JC/SAR-IV/14.11.2018-3P/7C