



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

Wednesday, the Twelfth day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21938 of 2018

1 MUTHUMARI

2 PITCHAIAH

... PETITIONERS / ACCUSED NO.1 & 2

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
CHOKKAMPATTI POLICE STATION,
CHOKKAMPATTI,
KADAYANALLUR TALUK,
TIRUNELVELI DISTRICT.
IN CRIME NO.272/2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.T.INDRACHITHU Advocate

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

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

ORDER : The Court Made the following order :-

The petitioners/Accused 1 & 2 apprehending arrest at the hands of the respondent police for the offence punishable under Section 379 IPC in Crime No.272 of 2018, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had illegally transported alluvial soil.

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

4.The learned counsel for the petitioners further submitted that he is withdrawing this petition insofar as the first petitioner is concerned. Accordingly, he has also made an endorsement to that effect. Recording the same, this petition is dismissed as withdrawn in respect of the first petitioner.



5. The learned Government Advocate (Crl. Side) appearing for the State submitted that there are no previous cases pending against the petitioners. He further submitted that if the persons are 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.

6. 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 second petitioner is directed to make a non refundable deposit of Rs.7,500/- (Rupees Seven thousand and five hundred only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

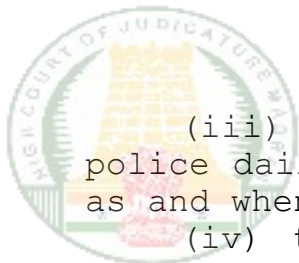
7. It is made clear that the deposit of the amount by the second petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

8. 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 second petitioner only with certain conditions.

9. Accordingly, the second petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Tenkasi, Tirunelveli District on condition that the second 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 Magistrate concerned and on further condition that:

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

(ii) the second petitioner shall make a non refundable deposit of Rs.7,500/- (Rupees Seven 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 admit the sureties furnished by the



(iii) the second 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 for interrogation.

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

(v) the second 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 petitioner in accordance with law as if the conditions have been imposed and the second 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.

sd/-

12/12/2018

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

TO

1 THE JUDICIAL MAGISTRATE,
TENKASI, TIRUNELVELI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE,
CHOKKAMPATTI POLICE STATION, CHOKKAMPATTI,
KADAYANALLUR TALUK, TIRUNELVELI DISTRICT.

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

+1. CC to M/S.T.INDRACHITHU Advocate SR.No.23130

COPY TO:

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

ORDER

IN

CRL OP(MD) No.21938 of 2018

Date :12/12/2018