



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

Wednesday, the Fifth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21407 of 2018

SATHISH KUMAR

... PETITIONER / ACCUSED No.1

Vs

STATE

THE INSPECTOR OF POLICE
KALAYARKOIL POLICE STATION,
SIVAGANGAI DISTRICT
Crime No.708/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.V.KANNAN Advocate

For Respondent : Mr.S.CHANDRASEKAR Additional Public Prosecutor

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 24.11.2018 for the offences punishable under Sections 279, 379 of I.P.C., and Section 2(1) of Mines and Minerals (Development and Regulation) Act, 1957 and 3 of TNPPDL Act, 1992, in Crime No.708 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 24.11.2018, the petitioner along with other accused illegally transported sand in the Tipper lorry bearing Registration No.TN 63 AA 5071, without obtaining any valid permission from the appropriate authority.

3. The learned counsel for the petitioner would submit that the petitioner brought the soil from the Patta land for his personal domestic use and that the petitioner is an innocent person and that the petitioner has been falsely implicated by the respondent police.

4. The learned Government Advocate (Crl.side) would submit that the petitioner had illegally transported three units of sand. He would further submit that if the person 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 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.5,000/- (Rupees Five Thousand Only) to the credit of concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

6. It is made clear that the deposit of the amount by the 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 on bail.

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-I, Sivagangai and on further condition that:

[a] the petitioner shall made a non refundable deposit of Rs.5,000/- (Rupees Five Thousand Only) to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate shall admit the sureties furnished by the petitioner;

[b] 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/-

05/12/2018

/ TRUE COPY /

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

TO

1.THE JUDICIAL MAGISTATE NO I, SIVAGANGAI

<https://hcservices.ecourts.gov.in/hcservices/>

2.THE CHIEF JUDICIAL MAGISTRATE,SIVAGANGAI DISTRICT.



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

4. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

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

+1. CC to Mr.V.KANNAN Advocate SR.No.22730

ORDER
IN
CRL OP(MD) No.21407 of 2018
Date :05/12/2018

TK/PN/SAR-3/05.12.2018/3P/8C