



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

Monday, the Third day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21277 of 2018

THANGAPANDI

... PETITIONER / SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
PERIYAKULAM POLICE STATION,
THENI DISTRICT.
(CRIME NO.427/2018)

... RESPONDENT / RESPONDENT

For Petitioner : MR.N.RANJITH Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)

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

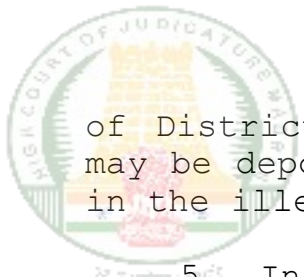
ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 of I.P.C., in Crime No.427 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that on 08.11.2018, the petitioner was illegally transported sand in the bullock cart with quantity of ½ unit for the worth of Rs.2000/-, without obtaining any valid permission from the appropriate authority.

3. The learned counsel for the petitioner would submit that the petitioner is a agriculturist and that the petitioner has no intention of theft of sand from the river bed.

4. The learned Government Advocate (Crl.side) would submit that the petitioner had illegally transported ½ unit 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, Periyakulam 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/-
03/12/2018

/ TRUE COPY /



TO

1. THE JUDICIAL MAGISTRATE,
PERIYAKULAM
2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT
3. THE INSPECTOR OF POLICE,
PERIYAKULAM POLICE STATION, THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE CHAIRMAN/ DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THENI DISTRICT

+1. CC to MR.N.RANJITH Advocate SR.No.22605

ORDER
IN
CRL OP(MD) No.21277 of 2018
Date :03/12/2018

KSA
MK/MMS/SAR 1/11.12.2018/3P/7C