



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

Tuesday, the Twenty Seventh day of November Two Thousand Eighteen  
PRESENT

**The Hon`ble Mr.Justice M.NIRMAL KUMAR**

WEB COPY

CRL OP (MD) No.20997 of 2018

KANNAN

...PETITIONER/ ACCUSED NO.2

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE,  
KALAYARKOVIL POLICE STATION,  
SIVAGANGAI DISTRICT.  
CRIME NO.687 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.V.KANNAN, Advocate  
For Respondent : Mr.K.SUYAMBULINGA BHARATHI,  
Government Advocate(Crl.Side)

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 16.11.2018 for the offences punishable under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and Section 3 of TN Public Property (Prevention of Damage and Loss) Act, 1992, in Crime No.687 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the on 15.11.2018, when the defacto complainant conducted a raid along with his officials, petitioner had illegally transported sand by using Lorry bearing Registration No.TN 57 A 8163 without any permission. Hence, he was arrested and remanded to judicial custody.

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

4.The learned Government Advocate (Crl.side) appearing for the State submitted that A2 is the driver of the vehicle and there are no previous case pending against the petitioner. He further submitted that if the persons 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 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.15,000/- (Rupees Fifteen thousand only)** to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

6. Considering the facts and circumstances of the case and considering the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner.

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 No.I, Sivagangai and on further condition that:

[a] the 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.

[b] the petitioner shall make a non refundable deposit of **Rs.15,000/- (Rupees Fifteen thousand 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 petitioner;

[c] 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/-

27/11/2018

/ TRUE COPY /

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 DISTRICT.
3. THE SUPERINTENDENT,CENTRAL PRISON, TRICHY.
4. THE INSPECTOR OF POLICE,  
KALAYARKOVIL POLICE STATION,  
SIVAGANGAI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

**COPY TO:**

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

+1. CC to Mr.V.KANNAN Advocate SR.No.22137

ORDER

IN

CRL OP(MD) No.20997 of 2018

Date :27/11/2018

**MS/VR-MMS/SAR-1/27.11.2018/3P.8C**