



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

Wednesday, the Twenty Eighth day of November Two Thousand Eighteen

WEB COPY

PRESENT

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

**CRL OP(MD) No.21068 of 2018**

1. VAIRAMUTHU

2. THANGAM @ MUTHURAGAVAN

... PETITIONERS / ACCUSED

NOS. 1 AND 2

Vs

STATE REPRESENTED BY  
THE INSPECTOR OF POLICE,  
SANKARANKOVIL TOWN POLICE STATION,  
CRIME NO. 646 OF 2018,  
TIRUNELVELI DISTRICT

... RESPONDENT / COMPLAINANT

For Petitioners : MR.J.SENTHIL KUMAR Advocate

For Respondent : MR.M.ASOKAN, Government Advocate(Crl.Side)

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

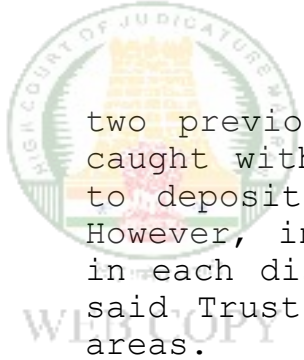
ORDER : The Court Made the following order :-

The petitioners, who apprehending arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC registered in Crime No.646 of 2018, seek anticipatory bail.

2. The case of the prosecution is that the petitioner illegally transported one unit of sand.

3.The learned counsel for the petitioners submitted that the petitioners had earlier filed a petition in Crl.O.P.(MD)No.18556 of 2018 and obtained anticipatory bail by this Court on 22.10.2018. Thereafter, the petitioners had moved an amendment petition and the extension petition stating that in the petition the respondent police has been wrongly mentioned as Karivalam Police Station instead of Sankarankovil Police Station. Hence, this Court on 23.11.2018 advised the petitioners to withdraw the petition and to file a fresh petition. Based on which, the petition came to be filed. He further submitted that the petitioners had already paid a sum of Rs.5,000/- before the concerned District Mineral Foundation Trust. Therefore, the same receipt may be accepted in this case.

4.The learned Government Advocate (Crl. Side) appearing for the State submitted that A1 is having one previous case and A2 is having



two previous cases. He further submitted that if the person is caught with illegal sand in the mining area, he has 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 petitioners, this Court is of the opinion that the petitioners are directed to make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** to the credit of the 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 petitioners 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.

7. 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 petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Sankarankovil, on condition that the petitioners 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

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

(ii) It is made clear that the petitioners had already deposited a sum of **Rs. 5,000/- (Rupees Five Thousand only)** to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District as directed by this Court. On receipt of such deposit, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;

(iii) the petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioners shall not abscond either during investigation or trial.

WEB COPY

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-  
28/11/2018

/ TRUE COPY /

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

TO

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

COPY TO

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

+1. CC to MR.J.SENTHIL KUMAR Advocate SR.No.22240

ORDER  
IN  
CRL OP(MD) No.21068 of 2018  
Date :28/11/2018