



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

Monday, the Third day of December Two Thousand Eighteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.21312 & 21313 of 2018

1 MURUGESAN
2 AJITHKUMAR

... PETITIONERS / ACCUSED NO. 1 & 3
IN CRL OP(MD) Nos.21312 of 2018

ESWARAN

...PETITIONER/ACCUSED NO.2
IN CRL OP(MD) Nos.21313 of 2018

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.

(IN CRIME NO. 254 OF 2018)

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioner : Mr.S.BASKARMATHURAM, Advocate for Mr.MATHURAM LAW
ASSOCIATES Advocate (IN BOTH PETITIONS)

For Respondent : Mr.K.SUYAMBULINGA BHARATHI Govt. Advocate
(Crl. Side)(IN BOTH PETITIONS)

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC r/w 21(4) of Mines and Mineral (D&R) Act registered in Crime No.254 of 2018, seek anticipatory bail.

2.The case of the prosecution is that the petitioners illegally transported 2 Units of sand.

3.The learned counsel appearing for the petitioners would submit that the first petitioner/A1 is concerned, the petition is dismissed as withdrawn.

4.The learned counsel for the petitioners/A2 & A3 submitted that the petitioners/A2 & A3 have not committed any offences as alleged by the prosecution and they have been falsely implicated in this case and that therefore, they may be granted anticipatory bail.

5.The learned Government Advocate (criminal side) appearing for the State submitted that the first petitioner/A1 in CrI.O.P.(MD) No.21312 of 2018, having two previous case and the other



petitioners/A2 & A3 are concerned having no previous case pending against the petitioners. 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.

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 second petitioner/A3 in Crl.O.P.(MD)No.21312 of 2018 and the petitioner/A2 in Crl.O.P.(MD)No.21313 of 2018, this Court is of the opinion that the petitioners/A2 & A3 are directed to make a non refundable deposit of **Rs.15,000/- (Rupees Fifteen thousand only) each (Totally Rs.30,000/-)** to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions.

7. It is made clear that the deposit of the amount by the petitioners/A2 & A3 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 (criminal side), this Court is inclined to grant anticipatory bail to the petitioners/A2 & A3 with certain conditions.

9. Accordingly, the petitioners/A2 & A3 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, Devakottai, Sivagangai District, 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/A2 & A3 fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners/A2 & A3 shall make a non refundable deposit of **Rs.15,000/- (Rupees Fifteen thousand only) each (Totally Rs.30,000/-)** 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 accept the sureties furnished by the petitioners;

(iii) the petitioners/A2 & A3 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/A2 & A3 shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioners/A2 & A3 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 petitioners/A2 & A3 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/-

03/12/2018

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

TO

1 THE JUDICIAL MAGISTRATE, DEVAKOTTAI, SIVAGANGAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

3 THE INSPECTOR OF POLICE,
DEVAKOTTAI TALUK POLICE STATION, SIVAGANGAI DISTRICT.

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

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

+2. CC to Mr.S.BASKARMATHURAM, Advocate for M/S.MATHURAM LAW
ASSOCIATES Advocate SR.No.22570, 22572
PS/VR-MMS/SAR-4/06/12/2018/3P/8C

ORDER

IN

CRL OP(MD) Nos.21312 & 21313 of 2018

Date : 03/12/2018