



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

Wednesday, the Fifth day of September Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) No.15874 of 2018

1 ESAKKIPANDI

2 KANTHIAH

... PETITIONERS/ ACCUSED RANK NOT KNOWN

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
TISAIYANVILAI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.278/2018)

... RESPONDENT / COMPLAINANT

For Petitioners: Mr.T.A.EBENEZER, Advocate

For Respondent : Mr.V.NEELAKANDAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

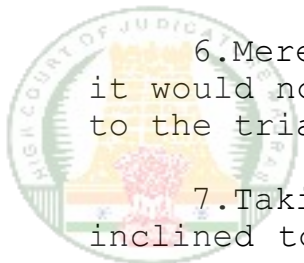
The petitioners apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 (Sand Theft) IPC and Section 21(1) of Mines and Minerals Act, in Crime No.278 of 2018, seek anticipatory bail.

2.The case of the prosecution is that on 25.08.2018, petitioners had illegally transported the river sand by using mini lorry bearing Reg.No.TN-31-L-4959. Hence, a case has been registered.

3. The learned counsel appearing for the petitioners would submit that the petitioners are an innocent and they have not committed any offence as alleged by the prosecution. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is one unit and the same was recovered. He further submitted that there is no previous is pending against the first petitioner herein and the second petitioner is having three previous cases similar in nature.

5.In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the opinion that the first petitioner is directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.



6. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is not inclined to grant of anticipatory bail to the second petitioner and to grant anticipatory bail to the first petitioner with certain conditions. Accordingly, the first petitioner shall deposit a sum of Rs.5,000/- (Rupees five thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and on such deposit he is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Nanguneri and 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 Magistrate concerned and on further condition that the first petitioner shall appear before the respondent police as and when required for interrogation. The first petitioner shall comply with the conditions stipulated under Section 438 Cr.P.C. scrupulously.

8. The first petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

9. Insofar as the second petitioner is concerned the anticipatory bail application is dismissed.

sd/-
05/09/2018

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE, NANGUNERI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
TISAIYANVILAI POLICE STATION, TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO: THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
TIRUNELVELI DISTRICT.

+1. CC to Mr.T.A.EBENEZER Advocate SR.No.16942

ORDER IN
CRL OP(MD) No.15874 of 2018
Date :05/09/2018