

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Second day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice C. SARAVANAN

CRIMINAL ORIGINAL PETITION No.12951 of 2019

K.ELUMALAI

[PETITIONER / ACCUSED]

Vs

THE STATE REP. BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
POLUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.
(CRIME NUMBER 219 OF 2019)

For Petitioner : M/S.P.GANESAN Advocate

For Respondent : M/S.T.SHUNMUGARAJESWARAN Government Advocate

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

ORDER : The Court Made the following order :-

The petitioner apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 and 430 of I.P.C read with Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 3 of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992 in Crime No.219 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is alleged to have transported three units of sand illegally in Tipper Lorry, resulting in registration of the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is three units and the same was recovered.

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 petitioner is directed to deposit a sum of Rs.15,000/- (Rupees fifteen 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 inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner shall deposit a sum of Rs.15,000/- (Rupees fifteen 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, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.1, Thiruvannamalai on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall appear before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
22/05/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.I
THIRUVANNAMALAI

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
POLUR POLICE STATION,
THIRUVANNAMALAI DISTRICT

5 THE OFFICER INCHARGE
DISTRICT MINERAL FOUNDATION TRUST,
THIRUVANNAMALAI

CC to M/S.P.GANESAN Advocate on payment of necessary charges

WEB COPY

CRL OP.12951/2019

Date :22/05/2019

cm 27/05/2019