



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

Friday, the Twenty Fifth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.1118 of 2019

V.PRABHU

... PETITIONER / ACCUSED No. 1

Vs

STATE THROUGH THE
INSPECTOR OF POLICE
ARALVOIMOZHI POLICE STATION,
KANYAKUMARI DISTRICT
CRIME NO.344/2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.R.VENKATESHWAR Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

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 offence punishable under Section 379 of IPC r/w. Sections 4(1)(1A) and 21(1) of Mines and Minerals Act, in Crime No.344 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had illegally transported three units of sand.

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 there is no previous case pending against the petitioner. 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 petitioner, this Court is of the opinion that the petitioner is directed to make a non refundable deposit of Rs.45,000/- (Rupees Forty 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 petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the 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 petitioner with certain conditions.

8. Accordingly, the petitioner 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 of receipt of a copy of this order, before the learned Judicial Magistrate, Poothapandi, Kanyakumari District on condition that the petitioner 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 learned Magistrate concerned and on further condition that:

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

(ii) the petitioner shall make a non refundable deposit of Rs.45,000/- (Rupees Forty Five thousand only) to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate shall admit the sureties furnished by the petitioner;

(iii) 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 for interrogation.

(iv) the petitioner shall not tamper with evidence or witness either during investigation or trial.

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

<https://hcservices.ecourts.gov.in/hcservices/>

(vi) 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]**.

(vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
25/01/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE
POOTHAPANDI, KANYAKUMARI DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT NAGERCOIL
- 3 THE INSPECTOR OF POLICE
ARALVOIMOZHI POLICE STATION, KANYAKUMARI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

COPY TO:- THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST
KANYAKUMARI DISTRICT.

+1. CC to MR.R.VENKATESHWAR Advocate SR.No.1428

ORDER
IN
CRL OP(MD) No.1118 of 2019
Date :25/01/2019

MSI/VR/SAR-III/30.01.2019-3P/7C