



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

Tuesday, the Fifth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.1874 of 2019

1 KARTHIKEYAN
2 GOPI
3 SUKUMAR
4 SATHASIVAM
5 CHINNAIYA
6 MURUGAN
7 MANIKANDAN

... PETITIONERS/ACCUSED Nos.1 to 7

Vs

THE INSPECTOR OF POLICE
THANJAVUR TAMIL UNIVERSITY POLICE STATION,
THANJAVUR
CRIME NO.25/2019

... RESPONDENT/COMPLAINANT

For Petitioners : MR.G.SIVARAJ, Advocate

For Respondent : MR.S.CHANDRASEKAR,
Additional Public Prosecutor (Crl.Side)

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners who were arrested on 23.01.2019 for the offence under Sections 379 IPC r/w Section 21(1) of the Tamil Nadu Mines and Minerals Act, 1957 in Cr.No.25 of 2019 on the file of the respondent police, seek bail.

2.The case of the prosecution is that based on the complaint given by one Gopalakrishnan, who is the VAO of Najikottai, the respondent police went to the spot and found that the petitioners transported soil illegally from the lake in four tipper lorries.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. However, on instruction, he would further submit that the petitioners are ready to deposit any amount to the District Mineral Foundation Trust without prejudice to their rights.



4.The learned Government Advocate (Crl.Side) appearing for the State submitted that the vehicles were seized by the respondent police. 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 districts, the amount may be deposited to the credit of the said Trust for rehabilitation in the areas affected by illegal sand mining.

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 petitioners are directed to make a non-refundable deposit of Rs.5,000/- (Rupees Five Thousand only) each to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions. This amount so deposited shall be utilised by the Trust for rehabilitation works.

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 bail.

7.Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate (Crl.Side), the petitioners are ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thanjavur and on further condition that:

(a)the sureties shall affix their photographs and left thumb impression in the surety bond and the concerned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners shall make a non-refundable deposit of Rs.5,000/- (Rupees Five Thousand only) each through Demand Draft 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 the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

(c)the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders;



(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond either during investigation or trial;

(f) 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]**; and;

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

sd/-
05/02/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, THANJAVUR DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM
- 3 THE INSPECTOR OF POLICE,
THANJAVUR TAMIL UNIVERSITY POLICE STATION,
THANJAVUR
- 4 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY
- 5 THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST, THANJAVUR DISTRICT
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.G.SIVARAJ, Advocate SR.No.2350

ORDER IN
CRL OP(MD) No.1874 of 2019
Date : 05/02/2019