



THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Fifth day of February Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.1885 of 2019

L.RIJO

... PETITIONER / 3rd ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ARALVOIMOZHI POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.32/2019

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.C.HEROLD SINGH Advocate

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

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 379 IPC and Sections 4(1)(1A) and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.32 of 2019, seeks anticipatory bail.

2.The case of the prosecution is that while the Sub Inspector of Police was patrolling with police team on 25.01.2019 at about 22.30 hours, at that time, they found that the petitioner was transporting five unit of sand as illegally in his tractor chase No.TN 75 C 4279 without any permit. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. However, on instruction, he would further submit that the petitioner is ready to deposit any amount to the District Mineral Foundation Trust without prejudice to his rights.

4.The learned Government Advocate (Crl.Side) appearing for the state submitted that the vehicle was 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 petitioner is directed to make a non-refundable deposit of Rs.80,000/- (Rupees Eighty Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his 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 petitioner 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.

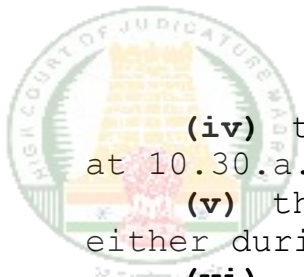
7. Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate (Crl.Side), I am inclined to grant anticipatory bail to the petitioner with certain conditions.

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, Boothapandi, 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 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 petitioner fails to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled.

(ii) the petitioner shall make a non-refundable deposit of Rs.80,000/- (Rupees Eighty Thousand only) through Demand Draft 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 the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

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



(iv) the petitioner shall report before the respondent police at 10.30.a.m., until further orders.

(v) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(vi) the petitioner shall not abscond either during investigation or trial;

(vii) 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]**;

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

sd/-

05/02/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE,
BOOTHAPANDI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.

3 THE INSPECTOR OF POLICE,
ARALVOIMOZHI POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1. CC to M/S.S.C.HEROLD SINGH Advocate SR.No. 45031

ORDER

IN

CRL OP(MD) No.1885 of 2019

Date :05/02/2019

JM/PN/SAR 4/12.02.2019/3P/6C