



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

Friday, the Eighth day of February Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.2084 of 2019

1 VISHVANATH

2 SAGAYARAJ

... PETITIONERS/A-1 & A-2

Vs

THE STATE REP.BY ITS.,
THE INSPECTOR OF POLICE
EAST POLICE STATION,
THANJAVUR,
CRIME NO.38/2019

... RESPONDENT/COMPLAINANT

For Petitioner : MR.K.M.KARUNAKARAN, Advocate

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

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

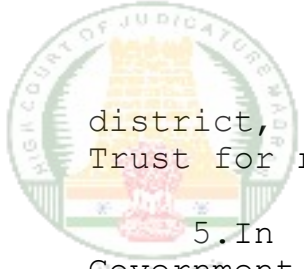
ORDER : The Court Made the following order :-

The petitioners are arrested and remanded in the judicial custody from 26.01.2019 for the offences punishable under Section 379 of IPC, Section 21(1) of Mines and Minerals (Development and Regulation) Act, registered in Crime No.38 of 2019, seek bail.

2.The case of the prosecution is that the petitioners illegally transported one and a half units of sand.

3.The learned counsel for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case and that therefore, they may be granted bail.

4.The learned Government Advocate (Crl. Side) appearing for the State submitted that there is no previous case pending against the petitioners. 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 petitioners, this Court is of the opinion that the petitioners are directed to make a non refundable deposit of Rs.22,500/- (Rupees Twenty Two thousand and five hundred 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 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), this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) 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.I, 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 petitioner shall deposit a sum of Rs.22,500/- (Rupees Twenty Two thousand and five hundred only) to the credit of the concerned District Mineral Foundation Trust Fund, without prejudice to his defence before the trial Court and therefore, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;

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

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

(e) the petitioner 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
08/02/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, THANJAVUR
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR AT KUMBAKONAM
- 3 THE INSPECTOR OF POLICE,
EAST 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.K.M.KARUNAKARAN, Advocate SR.No.2664

ORDER
IN
CRL OP(MD) No.2084 of 2019
Date :08/02/2019

TM
PK/JC/SAR-2/08.02.2019 : 3P/8C