



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

Thursday, the Fourteenth day of February Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.2334 of 2019

1 MALAISAMY
2 THAMILALAGAN

... PETITIONERS/
ACCUSED RANK NOT KNOWN

Vs

THE STATE THROUGH
THE INSPECTOR OF POLICE
M.KALLUPATTI POLICE STATION,
MADURAI DISTRICT
CRIME NO.28 OF 2019

... RESPONDENT / COMPLAINANT

For Petitioners : MR.J.SENTHIL KUMARAIAH Advocate

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

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

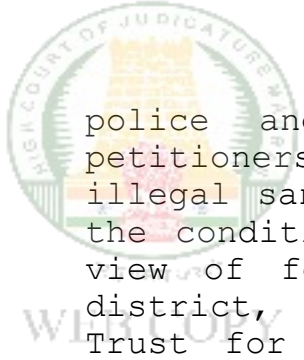
ORDER : The Court Made the following order :-

The petitioners, who are apprehending arrest at the hands of the respondent police for the offence punishable under Section 379 IPC and Section 21(5) of Mines & Minerals (Development & Regulation) Act, 1957, in Crime No.28 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that two units of sand has been illegally transported by the petitioners in their vehicle.

3. The learned counsel for the petitioners submitted that the petitioners are innocent person 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 his rights.

4. The learned Government Advocate(Crl.side) appearing for the State submitted that the vehicle was seized by the respondent



police and 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 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 petitioners, this Court is of the opinion that the petitioners are directed to make a non refundable deposit of Rs.30,000/- (Rupees Thirty Thousand only) jointly 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 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 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 petitioners with certain conditions.

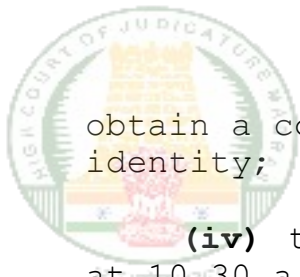
8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Usilampatti, on condition that the petitioners shall execute 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 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 petitioners failed 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 petitioners shall make a non refundable deposit of Rs.30,000/- (Rupees Thirty Thousand only) jointly 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 petitioners;

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

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

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

(vi) the petitioners 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 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]**;

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

sd/-
14/02/2019

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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
USILAMPATTI, MADURAI DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
MADURAI DISTRICT
- 3 THE INSPECTOR OF POLICE
M.KALLUPATTI POLICE STATION,
MADURAI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

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

+1. CC to MR.J.SENTHIL KUMARAI AH Advocate SR.No.3112
ORDER

IN

CRL OP(MD) No.2334 of 2019

Date :14/02/2019