



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

Friday, the Fifteenth day of February Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.2422 of 2019

1 JUSTIN JOSE

2 BOSCO TITSINGH

... PETITIONERS / 1st & 2nd ACCUSED

Vs

STATE REP. BY

THE INSPECTOR OF POLICE,
ARALVAIMOZHI POLICE STATION,
KANYAKUMARI DISTRICT.

CRIME NO. 32 OF 2019

... RESPONDENT / COMPLAINANT

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

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

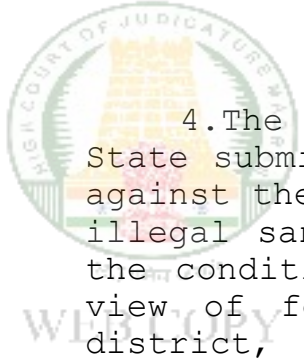
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners who were arrested and remanded in the judicial custody from 25.01.2019 for the offences punishable under Section 379 of IPC and Section 4(1)(1A), 21(1) of the Mines and Minerals (Development and Regulation) Act 1957, registered in Crime No.32 of 2019, seeks bail.

2.The case of the prosecution is that the petitioners illegally transported five 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. The co-accused A3 in this case has been granted anticipatory bail on condition to deposit a sum of Rs.80,000/- to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions by order of this Court dated 05.02.2019 in Crl.O.P.(MD).No.1885 of 2019. Therefore, they may be granted



4. The learned Government Advocate (Crl. Side) appearing for the State submitted that the petitioners have no previous cases pending against them. 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 as the co-accused A3 has been already granted anticipatory bail on condition to deposit a sum of Rs.80,000/- to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions, 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)** 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.

6. Accordingly, the petitioners are ordered to be released on bail on their 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 Additional District Munsif cum Judicial Magistrate, Boothapandi 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 deposit a sum of **Rs.30,000/- (Rupees Thirty thousand 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 petitioners;

(c) the petitioners shall report before the respondent police daily 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 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/-

15/02/2019

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

TO

1 THE ADDITIONAL DISTRICT MUNSIF
CUM JUDICIAL MAGISTRATE, BOOTHAPANDI.

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

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

4 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.

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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-3181 dated 15/02/2019)

COPY TO:

THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
KANYAKUMARI DISTRICT.

ORDER

IN

CRL OP(MD) No.2422 of 2019

Date :15/02/2019

JM/PN/SAR 4/15.02.2019/3P/8C