



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

Wednesday, the Twentieth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.2605 of 2019

BALASUBRAMANIAN

... PETITIONER / ACCUSED NO.12

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
PALAVUR POLICE STATION,
TIRUNELVELI DISTRICT,
CRIME NO.22/2019

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.SELVAKUMAR Advocate

For Respondent : MR.S.CHANDRASEKAR, Additional Public Prosecutor

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

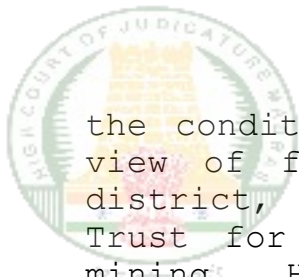
ORDER : The Court Made the following order :-

The petitioner, who was arrested on 29.01.2019, for the offence under Sections 465, 471, 379 IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Cr.No.22 of 2019, on the file of the respondent police, seeks bail.

2.It is the case of the prosecution that twenty four units of sand has been illegally transported by the petitioner and other accused persons in their vehicle.

3.The learned counsel appearing for the petitioner would submit 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. He would further submit that already this Court granted anticipatory bail to the co-accused in CrI.O.P.(MD)Nos.1864, 1867 and 1875 of 2019, dated 05.02.2019.

4.The learned Additional Public Prosecutor / Government Advocate(Crl.side) would submit that the vehicle was seized by the respondent police and there is no previous case pending against the petitioner. 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. He would further submit that the accused persons damaged tank pond.

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 a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) 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 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 bail.

7. Considering the facts and circumstances of the case and also considering the submission made by the learned Additional Public Prosecutor, I am inclined to grant bail to the petitioner.

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) 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, Nanguneri and on further condition that:

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

(b) the petitioner shall make a non refundable deposit of Rs.25,000/- (Rupees Twenty Five 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;

(c) the petitioner shall report before the respondent police 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;

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(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.

9.The learned counsel appearing for the petitioner would submit that the tank pond, which was damaged by the accused persons, will be restored by the all the accused persons, within a period of one week. Hence, all the accused persons in Cr.No.22 of 2019, are directed to restore the tank pond. Post this matter for reporting compliance, on **04.03.2019** along with Cr1.O.P.(MD)No.2585 of 2019.

sd/-
20/02/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE,
NANGUNERI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE INSPECTOR OF POLICE,
PALAVUR POLICE STATION,
TIRUNELVELI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL JAIL, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

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

+1 CC to M/s.S.SELVAKUMAR, Advocate (SR-3371[I] dated 20/02/2019)

COPY TO:

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

ORDER
IN
CRL OP(MD) No.2605 of 2019
Date :20/02/2019