



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

Monday, the Fourth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.3310 of 2019

JOTHIRAJAN

... PETITIONER / ACCUSED RANK NOT KNOWN

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
THIRUVAIYARU POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.40/2019

... RESPONDENT / COMPLAINANT

For Petitioner : MR.R.MAHESWARAN 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 apprehending arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, registered in Crime No.40 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner illegally transported two units of sand.

3.The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and that therefore, they may be granted anticipatory bail. However, on instructions he would further submit that the petitioner is ready to deposit any amount in favour of Mineral Trust without prejudice his rights.

4.The learned Government Advocate (Crl. Side) appearing for the State submitted that 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 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 petitioner, this Court is of the opinion that the petitioner is 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 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), this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Considering the facts and circumstances of this case, the petitioner is 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, Thiruvaiyaru, on condition that the petitioner 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 the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

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

(ii) the petitioner shall make a non refundable deposit of **Rs.30,000/- (Rupees Thirty thousand only)** to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to their defence before the trial Court and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;

(iii) the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

(iv) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioner shall not abscond either during investigation or trial.

(vi) 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]**.



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

sd/-
04/03/2019

WEB COPY

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJORE AT KUMBAKONAM.

3 THE INSPECTOR OF POLICE,
THIRUVAIYARU POLICE STATION,
THANJAVUR DISTRICT.

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

+1 CC to M/s.R.MAHESHWARAN, Advocate (SR-4242[I] dated 05/03/2019)

COPY TO:

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

ORDER

IN

CRL OP(MD) No.3310 of 2019

Date :04/03/2019

JM/JC/SAR 1/07.03.2019/3P/7C