



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

Thursday, the Tenth day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.427 of 2019

1 BALU @ BALAKUMAR

2 AJITH

... PETITIONER / ACCUSED NO.1 & 2

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
THOTTIYAM POLICE STATION,
THOTTIYAM, TRICHY DISTRICT.
(CRIME NO.08/2019)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.M.SILAMBARASAN, Advocate

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

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

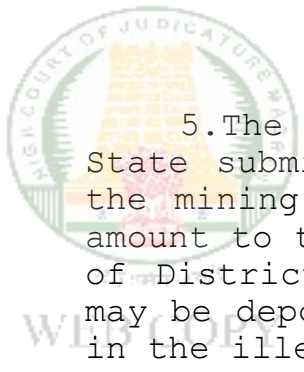
ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Section 379 IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, registered in Crime No.08 of 2019, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner illegally transported half unit of sand.

3.The learned counsel for the petitioners submitted that the second petitioner is not arrayed as an accused and he is not pressing for anticipatory bail and hence seeks permission of this Court to withdraw this petition for anticipatory bail as against the second petitioner. He has made an endorsement to that effect.

4.He would further submit that the first petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and that therefore, he may be granted anticipatory bail.



5.The learned Government Advocate (crl. Side) appearing for the State 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.

6.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 first petitioner is directed to make a non refundable deposit of **Rs.7,500/- (Rupees Seven Thousand and Five Hundred only)** to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions.

7.It is made clear that the deposit of the amount by the first petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

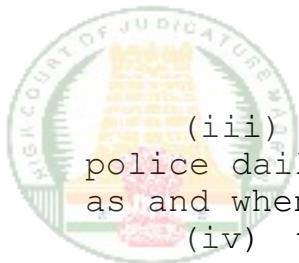
8.In view of the endorsement made by the learned counsel appearing for the petitioners, this criminal original petition is dismissed as withdrawn as against the second petitioner.

9.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 first petitioner with certain conditions.

10.Accordingly, the first petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Musiri, on condition that the first petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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 first petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the first petitioner shall make a non refundable deposit of **Rs.7,500/- (Rupees Seven Thousand and Five Hundred 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 first petitioner;



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

(v) the first 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 first petitioner in accordance with law as if the conditions have been imposed and the first 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/-

10/01/2019

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

TO

1 THE JUDICIAL MAGISTRATE,
MUSIRI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.

3 THE INSPECTOR OF POLICE,
THOTTIYAM POLICE STATION,
THOTTIYAM, TRICHY DISTRICT.

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

+1. CC to M/S.K.ARUNRAJ Advocate SR.No. 620

COPY TO:

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

ORDER

IN

CRL OP(MD) No.427 of 2019

Date :10/01/2019