



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

Thursday, the Tenth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.489 of 2019

GANESAN @ GANESAMOORTHY

... PETITIONER / ACCUSED No. 4

Vs

STATE: REP. BY

THE INSPECTOR OF POLICE

THIRUKKATTUPALLI POLICE STATION,

THANJAVUR DISTRICT

(CRIME NO.324/2018)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.P.VADIVEL Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI

Govt. Advocate (Crl. Side)

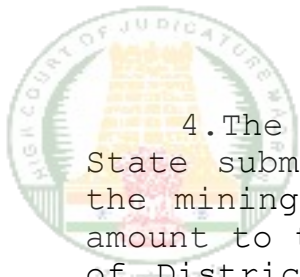
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends 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, 1957, registered in Crime No.324 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner illegally transported sand. The learned counsel appearing for the petitioner submitted that there are totally five accused in this case. The petitioner in this case has been arrayed as A4. This Court has earlier granted anticipatory bail to A1, A2, A3 and A5 on 07.01.2019 in Crl.O.P.(MD)No.187 of 2019 on condition that the petitioners shall pay a sum of Rs.90,000/- [Rupees Ninety Thousand only]. Total quantity of sand involved in this case is six units. In Crl.O.P.(MD)No.187 of 2019, A1, A2, A3 and A5 agreed to pay a sum of Rs.90,000/- [Rupees Ninety Thousand only].

3.The learned counsel for the petitioner further 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, he may be granted anticipatory bail.



4.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.

5.In view of the above, if the petitioners in CrI.O.P.(MD) No.187 of 2019 deposited a sum of Rs.90,000/- [Rupees Ninety Thousand only] to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions, no condition of remitting the amount by this petitioner will be imposed.

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 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.

8.Accordingly, the 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, Thiruvaiyaru, on condition that the 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 petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the trial Court shall confirm that the petitioners in CrI.O.P.(MD)No.187 of 2019 had deposited a sum of Rs.90,000/- [Rupees Ninety 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 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]**.

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

sd/-

10/01/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE
THIRUVAIYARU, THANJAVUR DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM
- 3 THE INSPECTOR OF POLICE
THIRUKKATTUPALLI POLICE STATION,
THANJAVUR DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

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

+1. CC to MR.P.VADIVEL Advocate SR.No.614

ORDER

IN

CRL OP(MD) No.489 of 2019

Date :10/01/2019

MSI/PN/SAR-II/22.01.2019-3P/7C