



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

Wednesday, the Third day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5077 of 2019

GANESAN

... PETITIONER / SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE,
PULUTHIPATTY POLICE STATION,
SIVAGANGAI DISTRICT.
(CRIME NO.20/2019)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.RM.ARUN SWAMINATHAN 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 apprehend arrest at the hands of the respondent police for the offence punishable under Sections 21(1) of Tamil Nadu Mines and Minerals Act, 1957, in Crime No.20 of 2019, seeks anticipatory bail.

2.The case of the prosecution is that, the petitioner has illegally transported two units of river sand without any proper permission or licence. Hence, a case has been registered against him by the respondent-Police.

3.The learned counsel for the petitioner submitted that the petitioner is no way connected in this case and the petitioner has not committed any offences as alleged by the prosecution.

4.The learned Government Advocate (Crl.Side) appearing for the State submitted that two units of river sand was seized by the respondent police and there is no previous case pending. 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 work in the areas affected by illegal sand mining.



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. 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 anticipatory 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 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 Court, Tirupputur, Sivagangai District, 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:

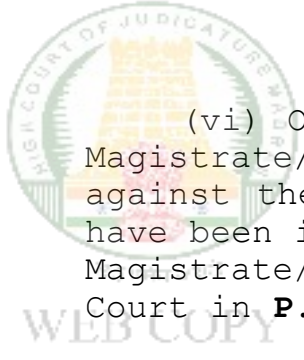
(i) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure his identity;

(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/-
03/04/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE COURT,
TIRUPPUTUR, SIVAGANGAI DISTRICT.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.
- 3 THE INSPECTOR OF POLICE,
PULUTHIPATTY POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

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

+1. CC to Mr.RM.ARUN SWAMINATHAN Advocate SR.No.6055

PS/JC/SAR-4/08.04.2019/3P/7C

ORDER
IN
CRL OP(MD) No.5077 of 2019
Date :03/04/2019