



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

Monday, the Eighth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5293 of 2019

1.BATCHA SELVAM (RAJINI) @ SELVAKUMAR,
2 GOPI @ BALAKRISHNAN ... PETITIONERS / ACCUSED 4 & 5

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
BUDALUR POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.49/2019)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.G.THALAIMUTHARASU Advocate

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

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

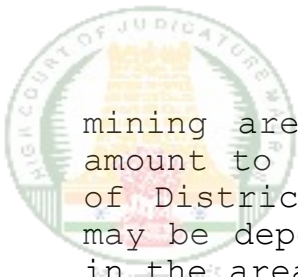
ORDER : The Court Made the following order :-

The petitioners who apprehends arrest at the hands of the respondent police for the alleged offence under Section 379 IPC read with Section 21(iv) of Tamil Nadu Mines and Minerals Act, in Crime No.49 of 2019, on the file of the respondent police, seek anticipatory bail.

2.It is the case of the prosecution that half unit of sand has been illegally transported by the petitioners in their bullock cart.

3.The learned counsel appearing for the petitioners would submit petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. However, on instruction, he would further submit that the petitioners are ready to deposit any amount to the District Mineral Foundation Trust without prejudice to their rights.

4.The learned Additional Public Prosecutor would submit that the vehicle was seized by the respondent police and there is no previous case pending against the petitioners. He would further submit that if the persons are caught with illegal sand in the



mining area, they have 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.

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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 petitioners, this Court is of the opinion that the petitioners are directed to make a non-refundable deposit of Rs.5,000/- (Rupees 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 petitioners 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 anticipatory bail to the petitioners.

8. Accordingly, the petitioners are 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 petitioners 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 sureties shall affix his photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity;

(b) the petitioners shall make a non-refundable deposit of Rs.5,000/- (Rupees 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 their defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/receipt, shall accept the sureties furnished by the petitioners;

(c) the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders;



(d) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioners shall not abscond either during investigation or trial;

(f) 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]**; and;

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

sd/-
08/04/2019

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

TO

1. THE JUDICIAL MAGISTRATE, THIRUVAIYARU.
2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE
BUDALUR POLICE STATION,
THANJAVUR DISTRICT.
4. THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.G.THALAIMUTHARASU Advocate SR.No.6366

ORDER
IN
CRL OP(MD) No.5293 of 2019
Date : 08/04/2019