



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

Monday, the Twenty First day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.753 of 2019

1.M.MANIKANDAN

2 S.SRIRAMAR

... PETITIONERS / ACCUSED Nos. 1 & 2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
PULIYANKUDI POLICE STATION,
SIVAGIRI TALUK,
TIRUNELVELI DISTRICT.
(CRIME NO.310/2018)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.C.SUSIKUMAR 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/accused, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 379 (sand theft) I.P.C in Crime No.310 of 2018, seek anticipatory bail.

2. The petitioners were earlier granted anticipatory bail by this Court vide order in Crl.O.P.(MD).No.16689 of 2018, dated 18.09.2018. But, they were unable to deposit the fine amount within the stipulated time. Hence, they have come forward with this petition.

3. The contention of the petitioners is that they are ready to co-operate with the investigation and they shall not tamper the investigation and hence, anticipatory bail may be granted to them.

4..The learned Government Advocate(Crl.Side) appearing for the State submitted that there is no previous case pending against the petitioners. 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 petitioners, this Court is of the opinion that the petitioners are jointly directed to make a non refundable deposit of Rs.5000/- (Rupees Five 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 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 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 petitioners with certain conditions.

8. Accordingly, the petitioners are 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, Sivagiri, Tirunelveli District, on condition that the petitioners shall each 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 learned Magistrate concerned and on further condition that:

(i) if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners shall jointly make a non refundable deposit of Rs.5000/- (Rupees Five Thousand only) to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, within a period of two weeks from the date of receipt of a copy of this order, without prejudice to his defence before the trial Court and thereafter, the learned Judicial Magistrate shall admit the sureties furnished by the petitioner;

(iii) the petitioner shall report before the respondent police 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/-
21/01/2019

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

TO

- 1.THE JUDICIAL MAGISTRATE,
SIVAGIRI.
 - 2.DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT
 - 3.THE INSPECTOR OF POLICE,
PULIYANKUDI POLICE STATION,
SIVAGIRI TALUK,
TIRUNELVELI DISTRICT.
 - 4.THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
TIRUNELVELI DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to MR.C.SUSIKUMAR Advocate SR.No.1171

ORDER
IN
CRL OP(MD) No.753 of 2019
Date :21/01/2019

AE/PN/SAR2/28.01.2019/3P/7C