



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

Tuesday, the Twenty Second day of January Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.841 of 2019

RAJA

... PETITIONER / ACCUSED NO.2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
VADASERY POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.
(CRIME .NO.11/2019)

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.L.GEORGE PAUL ANTO 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 of IPC, in Crime No.11 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had illegally transported three units of sand.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he is only the owner of the vehicle and he has noway connected in this allegations.

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 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.45,000/- (Rupees Forty Five Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions.

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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 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 No.II, Nagercoil, Kanyakumari 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 learned Magistrate concerned and on further condition that:

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

(ii) the petitioner shall make a non refundable deposit of Rs.45,000/- (Rupees Forty Five Thousand only) to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, 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 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.

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sd/-
22/01/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
NAGERCOIL, KANYAKUMARI DISTRICT.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE,
VADASERY POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

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

+1. CC to Mr.L.GEORGE PAUL ANTO Advocate SR.No.841

PS/PN/SAR-4/28.01.2019/3P/7C

ORDER
IN
CRL OP (MD) No.841 of 2019
Date :22/01/2019