



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

Wednesday, the Thirtieth day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.22619 of 2018

1 MARICHELVAM
2 MURUGAN
3 K.PARAMASIVAN
4 RATHAKRISHNAN
5 KRISHNAMOORTHY
6 EDWIN
7 PADBANATHAM
8 B.KARNAN
9 KANNABIRAM
10 SANKARANARYANAN
11 S.APARAMASIVAM

... PETITIONERS/ ACCUSED RANK NOT KNOWN

Vs

STATE REP. BY ITS
THE INSPECTOR OF POLICE,
SEETHAPARPANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.173/2018)

... RESPONDENT /RESPONDENT

For Petitioners : MR. S.KATHIRVELU, Senior Counsel for
MR.K.PRABHU, Advocate

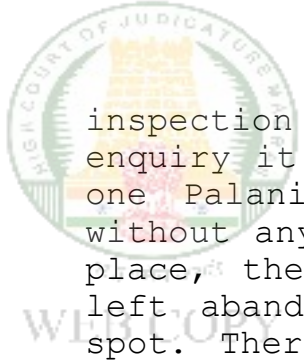
For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 of IPC (Line stone) Section 3 of TNPPDL Act 1992 and Section 21 (4) of the Mines and Minerals Development Act, 1957 in Cr.No.173 of 2018 seek anticipatory bail.

2. The case of the prosecution is that on 27.10.2018 at about 10.00 a.m when the respondent police and his party were in patrol duty in Uganthanpatti Village, they intercepted a lorry bearing Registration No.TN 72 J 9936 in the road of Subramaniapuram to Uganthanpatti. On seeing the police party, the person who driven the vehicle ran away from the scene of occurrence. The lorry on



inspection was found with a load of limestone and thereafter on enquiry it was found that in the land in Sy.No.568 of the Village one Palanisamy of Tirunelveli had been mining the limestones, without any valid license. When the police party reached the mining place, the lorries, tipper lorries, bokline and two wheelers were left abandoned and the persons present there, ran away from the spot. Thereafter the properties and vehicles were seized and FIR came to be registered against the said Palanisamy, the owner of mine and others.

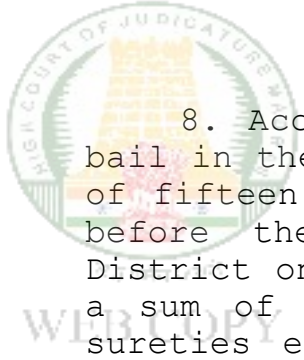
3. The learned counsel for the petitioners would submit that it is only non renewal of lease, the Mines and Mineral (Development and Regulation) Act said to have been violated. At the most it could be violation of Mining Rules and Regulations by the first petitioner alone. The other petitioners are concerned since their vehicles were found in the scene of occurrence, they apprehend arrest.

4. The learned Government Advocate (Crl.Side) would submit that large amount of valuable minerals of limestone which is a major mineral had been illegally quarried and the resource of the nature has been plundered and extracted without any valid license and destructed the natural resources. He would also submit that the investigation is at the initial stage. He would also submit that the petitioners have not produced any documents to claim their right for mining and transportation. He further submitted that if the person is 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 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 directed to make a non refundable deposit of Rs.15,000/- (Rupees Fifteen thousand only) each to the credit of the concerned District Mineral Foundation Trust, without prejudice to their 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 their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Alangulam, Tirunelveli District 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 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 make a non refundable deposit of Rs.15,000/- (Rupees Fifteen thousand only) each 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 admit the sureties furnished by the petitioner;

(iii) the petitioners 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 petitioners shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioners 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/-
30/01/2019

/ TRUE COPY /

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

TO



2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI

3 THE INSPECTOR OF POLICE
SEETHAPARPANALLUR POLICE STATION,
TIRUNELVELI DISTRICT

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

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

+1. CC to MR.K.PRABHU Advocate SR.No.1822

ORDER
IN
CRL OP(MD) No.22619 of 2018
Date :30/01/2019

MSI/PN/SAR-III/05.02.2019-4P/7C