

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.5713 of 2020

1 T.PRASHANTH
2 A. THANGARAJ

[PETITIONERS / ACCUSED]

Vs

STATE REP. BY [RESPONDENT]
INSPECTORE OF POLICE,
KANCHI TALUK POLICE STATION
KANCHEEPUREM DISTRICT.
(CRIME NO. 102 OF 2020).

For Petitioner : M/S.K.G.SENTHILKUMAR Advocate

For Respondent : MR. K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The Petitioners herein, apprehending arrest at the hands of the Respondent Police, for having allegedly committed the offences punishable under Sections 430, 379 of IPC and r/w. 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957 3(1) TN Public Property (Prevention of Damage & Loss) Act 1992 in Crime No.102 of 2020, have filed this Criminal Original Petition, under Section 438 of Cr.PC, seeking anticipatory bail.

2. The case of the Prosecution is that the Petitioners had illegally transported 2 units of river sand, without any valid licence and hence, they have been implicated as an accused in the case on hand.

3. This court heard the learned counsel for the Petitioners and the learned Additional Public Prosecutor for the Respondent and also perused the materials placed before this Court.

4. According to the Petitioners, the Petitioners are no way connected with the alleged offences and they have been falsely implicated in the case on hand and. The Petitioners would abide by any conditions to be imposed by this Court for enlarging the Petitioners on anticipatory bail.

5. On the other hand, the learned Additional Public Prosecutor, while vehemently opposing to grant anticipatory bail, would submit that the Petitioners had transported 2 units of river sand, without any valid licence and that the vehicle used for transporting the sand was also seized by the Respondent Police and hence, anticipatory bail cannot be granted. He would further submit that in a case where a persons are caught with illegal sand in the mining area, they are to be directed to deposit appropriate conditional amount as non refundable deposit, to the credit of the Crime Number, among other conditions, however, in view of formation of District Mineral Foundation Trust in each District, the conditional amount may be directed to be deposited to the credit of the said Trust for rehabilitation in the illegal sand mining affected areas. He would further submit that there is no previous case, pending against the Petitioners.

6. In view of the rehabilitation measures undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017 and also in order to curb the illegal sand mining activities, this Court is of the opinion that the accused may be directed to deposit appropriate amount as a non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to the rights and contentions of the parties before the trial Court. However, it is made clear that merely depositing the said amount as non refundable would not amount to admission of guilt. It is open to the Trial Court to deal with the case independently, on merits and in accordance with law, without reference to the amount deposited at the stage of anticipatory bail.

7. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail in favour of the Petitioners, however, on stringent conditions. Accordingly, the Petitioners are hereby ordered to be released on anticipatory bail, in the event of arrest or on their appearance before the Judicial Magistrate No.II, Kancheepuram District, within 15 days from the date of receipt of a copy of this order and further on the Petitioners complying with the following conditions, without fail:-

- i. If the Petitioners fails to surrender before the Judicial Magistrate No.II, Kancheepuram District, within a period of 15 days, from the date of receipt of a copy of this order, this order shall stand automatically cancelled, without any further reference to this Court.
- ii. Each of the Petitioner shall execute a separate 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 Judicial Magistrate No.II, Kancheepuram District. The sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.

iii.Each of the Petitioner shall deposit a sum of Rs.30,000/- (Rupees Thirty Thousand Only) as non refundable deposit, to the credit of the concerned District Mineral Foundation Trust.

iv.The Petitioners shall report before the Respondent Police, daily at 10.30 a.m., until further orders.

v. The Petitioners shall not abscond either during the investigation or the trial. The Petitioners shall not tamper with evidence or witness, either during the investigation or the trial.

vi.On breach of any of the aforesaid conditions, the concerned 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 are released on bail, by the concerned Trial Court itself, as laid down in the decision of the Honourable Supreme Court reported in 2005 AIR SCW 5560 (P.K.Shaji Vs. State of Kerala).

vii.If the Petitioners, thereafter, absconds, a fresh First Information Report shall be registered, under Section 229A of IPC.

-sd/-

13/03/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, KANCHEEPURAM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTORE OF POLICE,
KANCHITALUK POLICE STATION
KANCHEEPUREM DISTRICT.

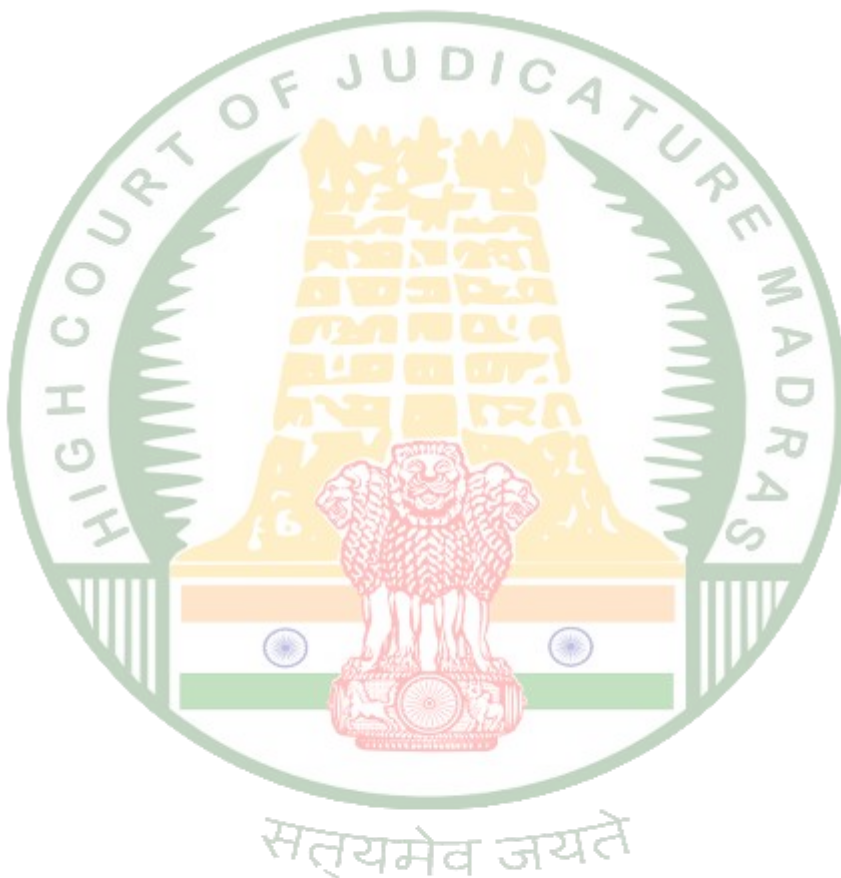
5 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
KANCHEEPURAM

CC to M/S.K.G.SENTHILKUMAR Advocate on payment of necessary
charges sr.5021

CRL OP.5713/2020

Date :13/03/2020

RVR 20/03/2020



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