



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 16/03/2020

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PRESENT

**The Hon`ble Dr.Justice G.JAYACHANDRAN**

CRL OP(MD) . No.4629 of 2020

1. Jegan  
2. Mohan Raj

... Petitioners/Accused No.1 & 2

Vs

State Rep.by  
The Inspector of Police,  
Kulasekaram Police Station,  
Kanyakumari District.  
Crime No.37 of 2020.

... Respondent/Complainant

For Petitioners : M/s.T.Nelson, Advocate.  
For Respondent : Mr.K.Suyambulinga Bharathi,  
Government Advocate (Crl.Side)

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

**PRAYER :-**

To pass an appropriate order directing the release of the petitioner on bail in the event of their arrest or surrender pending investigation in Cr.No.37 of 2020 on the file of the Respondent.

ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 379 of IPC r/w.21(1) of Mines and Minerals Development and Regulation Act,1957 seek anticipatory bail.

2. The case of the prosecution is that the petitioner has illegal transported one unit of red soil.

3. The learned counsel for the petitioners would submit that the petitioner is innocent and he has committed any offence.

4. 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.25,000/- (Rupees Twenty Five thousand only)** to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions.

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5. 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 the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

6. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners on following conditions.

7. 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 No.II, Padmanabhapuram on condition that the petitioners shall execute a bond for a sum of Rs.1,00,000/- (Rupees One lakh 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 said Magistrate, on further condition that:

[a] The petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or bank pass book to ensure their identity.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m until further orders

[c] the petitioners shall make a non refundable deposit of **Rs.25,000/- (Rupees Twenty Five thousand only)** 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 accept the sureties furnished by the petitioner

[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]**.



[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-  
16/03/2020

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/ /2020  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.II, PADMANABHAPURAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,  
KULASEKARAM POLICE STATION, 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 M/s.T.NELSON, Advocate ( SR-5318[I] dated 16/03/2020 )

ORDER  
IN  
CRL OP(MD) No.4629 of 2020  
Date :16/03/2020

MS/VR/SAR-4/18.03.2020/3P.7C