

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.7184 of 2021

1. Kumar
2. Prabhu
3. Veerasekar
4. Rajamohan
5. Aasaithambi
6. Ramesh

... Petitioners

Vs.

State represented by,
Inspector of Police,
Kilvelur Police Station,
Nagapattinam District.
(Crime No.240 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail in Crime No.240 of 2021 pending on the file of the respondent.

For Petitioners : Mr.P.Muthamizhselvakumar

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

ORDER

The petitioners who were arrested on 10.05.2020 and remanded to judicial custody for the offences under Sections 379, 430 of IPC, r/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Cr.No.240 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were involved in illegal transportation of $\frac{1}{2}$ unit of sand. Hence the complaint.

3. The learned counsel appearing for the petitioners submits that the petitioners have not committed any offence as alleged by the prosecution. However, on instructions, he further submits that the petitioners, without prejudice to their rights, are ready to deposit the amount that is to be imposed by this Court to the Mineral Foundation Trust.

4. The learned Additional Public Prosecutor submitted that the vehicle involved was seized by the respondent police and that there is no previous case pending against the petitioners. She 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 areas affected by illegal sand mining.

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 shall be directed to make a non refundable deposit of Rs.5,000/- (Rupees five Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Trust for rehabilitation works.

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

7. Accordingly, the petitioners are ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- each (Rupees Ten Thousand Only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate Court No.I at Nagapattinam, and on further condition that:

(a) 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 not tamper with evidence or witness either during investigation or trial;

(d)the petitioners shall not abscond either during investigation or trial;

(e)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]; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

17/04/2021

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.I, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

3 THE OFFICER INCHARGE
DISTRICT PRISON, NAGAPATTINAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KILVELUR POLICE STATION,
NAGAPATTINAM DISTRICT.

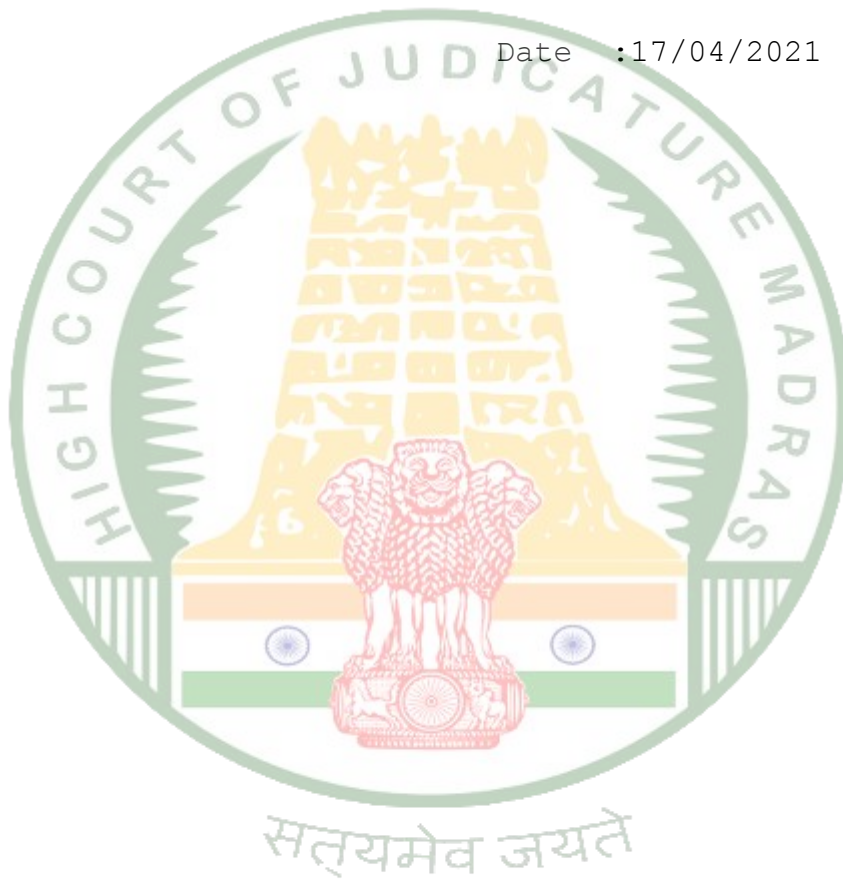
6 THE OFFICER INCHARGE
DISTRICT MINERAL FOUNDATION TRUST,
NAGAPATTINAM.

CC to M/S.P.MUTHAMIZHSELVAKUMAR Advocate on payment of necessary
charges

CRL OP.7184/2021

Date :17/04/2021

cs 17/04/2021



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