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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.7220 of 2021

1.Baskar
2.Sarkunam

... Petitioners

Vs.

The State rep by
Inspector of Police,
Manalmedu Police Station,
Manalmedu,
Nagapattinam District.

... Respondent

Prayer:

Petition filed under Section 439 of Cr.P.C., seeking to enlarge the petitioners on bail for the alleged offences under Sections 379, 430 IPC r/w Sec. 21(1) of Mines and Minerals (Development and Regulation Act) in Crime No.155 of 2021 now pending on the file of the Inspector of Police, Manalmedu Police Station, Manalmedu, Nagapattinam District.

For Petitioners : Mr.T.S.Rajamohan

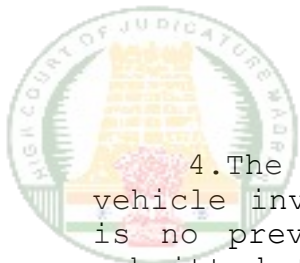
For Respondent : Ms.M.Prabhavathi
Additional Public Prosecutor

ORDER

The petitioners who were arrested on 24.03.2021 for the offence under Sections 379, 430 of I.P.C. read with 21(1) of Mines and Minerals (Development and Regulation) Act in Cr.No.155 of 2021 on the file of the respondent police, seeks bail.

2.It is the case of the prosecution that the petitioners were involved in illegal transportation of 1 unit of sand.

3.The learned counsel appearing for the petitioners would submit that the petitioner has not committed any offence as alleged by the prosecution. However, on instructions, he would further submit that the petitioner, without prejudice to his rights, is 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 petitioner shall be directed to make a non refundable deposit of Rs.20,000/- (Rupees Twenty 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 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 bail.

7.Considering the facts and circumstances of the case and also considering the submission made by the learned Additional Public Prosecutor, I am inclined to grant bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each, 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-1, Mayiladuthurai and on further condition that:

(a)the petitioners shall make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) through demand draft 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 the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

(b)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;

(c)the petitioners shall report before the respondent police, daily at 10.30 a.m. until further orders;

(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 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;

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

-sd/-
19/04/2021

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.1, MAYILADUTHURAI.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MANALMEDU POLICE STATION,
MANALMEDU,
NAGAPATTINAM DISTRICT.

5 THE OFFICER INCHARGE
SUB JAIL, PORAYAR,
MAYILADUDURAI DISTRICT.

6 THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST
NAGAPATTINAM.

+1 CC to M/S. T.S.RAJAMOHAN Advocate on payment of necessary charges SR.NO.4995

CRL OP.7220/2021

Date :19/04/2021