

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirtieth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.7479 of 2021

1 GURUSEV
2 JEEVA

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY [RESPONDENT]
T.PALUR POLICE STATION,
ARIYALUR DISTRICT.
CR.NO.158 OF 2021.

For Petitioner : M/S.R.PRABAKAR Advocate

For Respondent : MR.T.SHUNMUGARAJESWARAN, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offence under Section 379 of I.P.C. and 21(1) of the Mines and Minerals (Development and Regulation) Act 1957, in Cr.No.158 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners were found to be collecting sand illegally.

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

4.The learned Government Advocate submitted that there is one previous case pending as against the first petitioner and there is no previous case pending as against the second petitioner. He 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 petitioner, this Court is of the opinion that the petitioners shall be directed to make a non refundable deposit of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to their 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 anticipatory bail.

7. Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate, I am 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 Principal District and Sessions Court, Ariyalur, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioners shall make a non refundable deposit of Rs.50,000/- (Rupees Fifty 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 petitioners;

(c) the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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

(e) the petitioners shall not tamper with evidence or witness either during investigation or trial;

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

(g) 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]**; and;

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

-sd/-
30/04/2021

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 PRINCIPAL DISTRICT AND
SESSIONS JUDGE, ARIYALUR.

2 THE CHAIRMAN/DISTRICT
COLLECTOR, DISTRICT MINERAL FOUNDATION TRUST,
ARIYALUR.

3 THE INSPECTOR OF POLICE,
T.PALUR POLICE STATION,
ARIYALUR DISTRICT.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, CHENNAI.

+1 CC to M/S.R.PRABAKAR Advocate on payment of necessary charges SR NO.5621

CRL OP.7479/2021

Date :30/04/2021

rg.05.05.2021