

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Second day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mrs Justice V.BHAVANI SUBBAROYAN

CRIMINAL ORIGINAL PETITION No.7620 of 2021

1 JAYASELAN
2 ARUL KUMAR

[PETITIONERS / ACCUSED]

Vs

STATE REP.BY [RESPONDENT]
INSPECTOR OF POLICE,
NANNILAM POLICE STATION,
TIRUVARUR DISTRICT.
CR.NO.422/2021.

For Petitioner : M/S.T.MURUGANANTHAM 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 offence punishable under Sections 379 of IPC r/w Section 21(1) of Mines and Minerals(Development & Regulation) Act,1957 in Crime No.422 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners were found illegally transporting one unit of savudu sand in a tractor without any valid licence or permit. The respondent police seized the vehicle and found one unit of sand. Hence, a case has been registered by the respondent police.

3. The learned counsel for the petitioner submitted that the petitioners did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the petitioners are only drivers of the vehicle. However, on instructions, he would further submit that the petitioners are ready to deposit any amount to Mineral Foundation Trust without prejudice to his rights.

4. The learned Government Advocate appearing for the State submitted that the vehicle was seized by the respondent police and there is no previous case pending against the petitioners. 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 petitioners, this Court is of the opinion that the petitioners are directed jointly to make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions. This 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 that no previous case pending against the petitioners, 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 Judicial Magistrate, Nannilam, on condition that 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) the petitioners shall jointly make a non refundable deposit of Rs.10,000/- (Rupees Ten thousand only) by way of demand draft 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 the receipt/challan shall be produced before the learned Magistrate and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner;

(iii) 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;

(iv) the petitioner shall report before the respondent police daily at 10.30.a.m. for a period of four weeks and thereafter, as and when required for interrogation.

(v) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(vi) the petitioner shall not abscond either during investigation or trial;

(vii) 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];

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

-sd/-

22/04/2021

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,
NANNILAM

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
NANNILAM POLICE STATION,
TIRUVARUR DISTRICT.

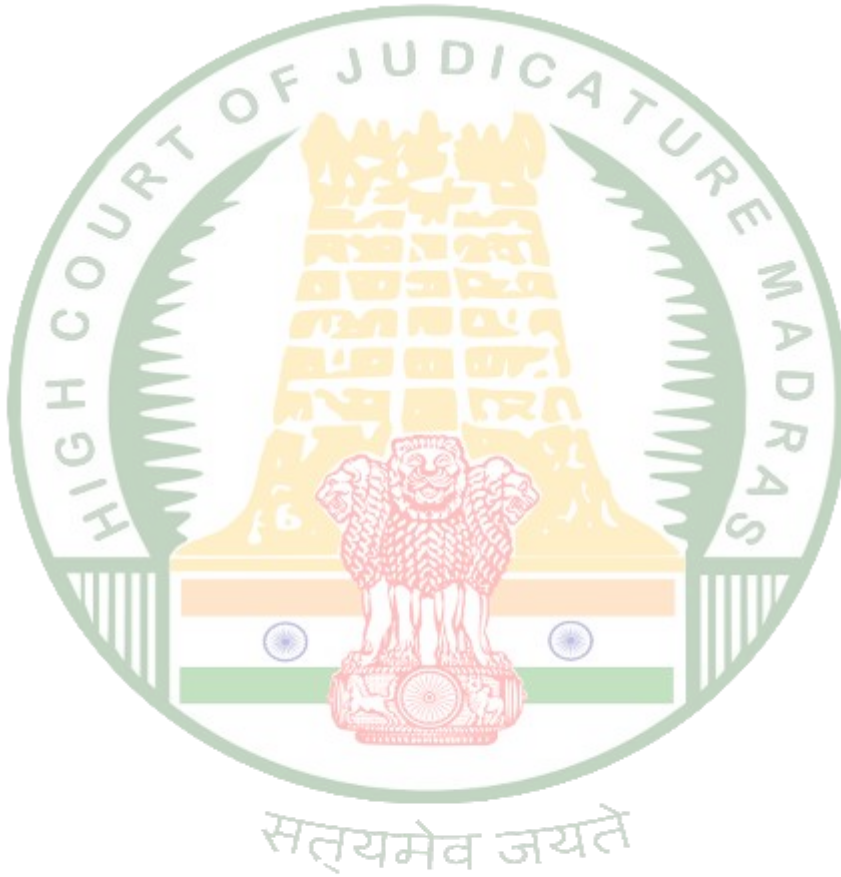
5 THE CHAIRMAN/DISTRICT
COLLECTOR, DISTRICT MINERAL FOUNDATION TRUST,
THIRUVARUR

CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary
charges Sr.5199

CRL OP.7620/2021

Date :22/04/2021

RVR 29/04/2021



WEB COPY