

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Eighth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.7987 of 2021

SATHISH @ R.SATHISH KUMAR [PETITIONER / ACCUSED]

Vs

[RESPONDENT]

STATE REP BY
THE INSPECTOR OF POLICE,
VIRTHUMPET POLICE STATION,
VELLORE DISTRICT
(CR.NO.156/2021)

For Petitioner : M/S.M.SATHISH KUMAR 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 petitioner/A3, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 379 & 430 of IPC r/w Section 2(1) of Mines and Minerals (Development & Regulation) Act 1957 in Crime No.156 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that while the respondent was on a regular patrol, they found the petitioner and two other accused persons illegally transporting 25kgs of river sand in three bags. Hence, the complaint.

3.The learned counsel appearing for the petitioner submits that the petitioner did not commit any offence as alleged by the prosecution. However, on instructions, he further submits that the petitioner, **without prejudice to his rights, is ready to deposit any amount that is to be imposed by this Court to the Mineral Foundation**

Trust. Hence, he sought for grant of anticipatory bail to the petitioner .

4.The learned Government Advocate submitted that the vehicle involved was seized by the respondent police and there is no previous case pending against the petitioner. The learned counsel 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 petitioner 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 petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.III, Vellore, on condition that the petitioner shall execute a 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner and 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;

(b) the petitioner is 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.

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

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

(e) the petitioner 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]**; and;

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

-sd/-

28/04/2021

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.III
VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE DISTRICT. (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
VIRTHUMPET POLICE STATION,
VELLORE DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, CHENNAI.

5 THE DISTRICT MINERAL
FOUNDATION TRUST, VELLORE DISTRICT.

+1 CC to M/S.M.SATHISH KUMAR Advocate on payment of necessary
charges SR.No. 5521

CRL OP.7987/2021

Date :28/04/2021

RG.13.05.2021



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