

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifth day of May Two Thousand Twenty One

PRESENT

The Hon`ble Ms Justice R.N. MANJULA

CRIMINAL ORIGINAL PETITION No.8528 of 2021

1 DHIVAN
2 SIVA

[PETITIONERS / ACCUSED]

Vs

STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
WALAJABATH POLICE STATION,
KANCHEEPURAM DISTRICT.
CRIME NO.967 OF 2020.

For Petitioner : M/S. G.PUNNIAKOTI 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 (A1 and A2), who apprehend arrest at the hands of the respondent/police for the alleged offences punishable under Sections 430, 379 IPC r/w 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957, r/w Section 3(1) of the Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992, in Crime No.967 of 2020, seek anticipatory bail.

2. It is the case of the prosecution that the petitioners are alleged to have transported ¼ unit of river sand in a bullock-cart illegally.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the quantity of sand involved is ¼ unit of river sand. He further submitted that there is no previous case pending against the petitioners.

5. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) each, as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioners have deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each, as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and on such deposit the petitioners are ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Kancheepuram, on condition that the petitioners 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and 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 as and when required for interrogation;

[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 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

[f] if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-
05/05/2021

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.II,
KANCHEEPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
WALAJABATH POLICE STATION,
KANCHEEPURAM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
KANCHEEPURAM.

CC to M/S. G.PUNNIAKOTI Advocate on payment of necessary charges

CRL OP.8528/2021

MK:07/07/2021

Date :05/05/2021

WEB COPY