

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.05.2021

CORAM

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

Crl.O.P.No.8986 of 2021

Kamal

.. Petitioner

Vs.

The State represented by .. Respondent
The Sub Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
Crime No.03 of 2021.

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.03 of 2021, pending investigation on the file of hte respondent Police.

For Petitioner : Mr.G.Pugazhenth

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest for the alleged offences under Sections 379, 430 of IPC r/w. Section 21 (1) of Mines and Minerals Development and Regulation Act 1957, in Crime No.03 of 2021, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioner had transported 50Kg river Sand (in two gunny bags) using a two wheeler without any valid license. Hence, a case has been registered against the petitioner.

3.The learned counsel appearing for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution and he has been falsely implicated in this case. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) submitted that the quantity of sand involved is 50 kg and there is no previous case pending as against the petitioner. However, he opposed for the grant of bail to the petitioner.

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, this Court is of the opinion that the petitioner is directed to deposit a sum of **Rs.8,000/- (Rupees Eight thousand only)** 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 petitioner has 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.

8. Accordingly, the petitioner shall deposit a sum of **Rs.5,000/- (Rupees five thousand only)** as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, and on such deposit the petitioner is ordered to be released on bail on his executing 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 learned Judicial Magistrate II, Chidambaram, Cuddalore District and on further conditions that:-

[a] the petitioner 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 petitioner shall report before the respondent police daily at 10.30 a.m for a period of one week and thereafter, as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 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]**.

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

-sd/-

12/05/2021

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, CHIDAMBARAM, CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP.BY
THE SUB INSPECTOR OF POLICE, KUMARATCHI
POLICE STATION, CUDDALORE DISTRICT.CR.NO.03
OF 2021.

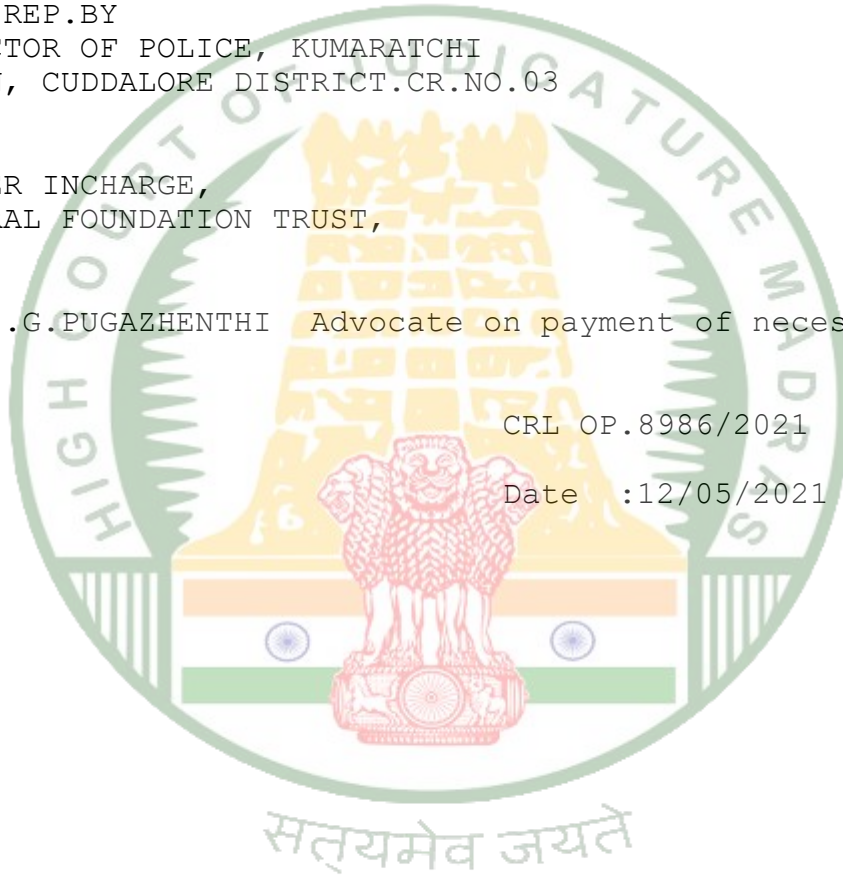
5 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
CUDDALORE.

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

CRL OP.8986/2021

Date :12/05/2021

TA-02/07/2021



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