

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.9801 of 2021

1.Gopinath
2.Aravindh @ Abi

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
Kilkodungalore Police Station,
Thiruvannamalai District.
(Crime No.140 of 2021)

... Respondent

Prayer:

Petition filed under Section 439 of Cr.P.C., seeking to enlarge the petitioners on bail concerned in Crime No.140 of 2021 pending on the file of the respondent police.

For Petitioners : Mr.S.N.Arunkumar

For Respondent : Mr.A.Gopinath
Government Advocate (Cr1. Side)

ORDER

The petitioners who were arrested and remanded to judicial custody on 25.05.2021 for the offence under Sections 379, 430, 341, 294(b), 332, 307 of I.P.C. and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Cr.No.140 of 2021 on the file of the respondent police, seek bail.

2.It is the case of the prosecution that the petitioners were involved in illegal transportation of 1 unit of sand. The petitioners are arrayed as A1 and A2 in the case.

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

4.The learned counsel appearing for the petitioners further submitted that the petitioners are now confined in Central Prison, Vellore, however, in the petition it is mentioned as Sub-Jail, Vandavasi, Tiruvannamalai District and prayed for appropriate orders.

5.The learned Government Advocate (Crl. Side) submitted that there are four previous cases as against the first petitioner and further submitted that the vehicle involved was seized by the respondent police. 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.

6.Considering the fact that there are four previous cases as against the first petitioner, this Criminal Original Petition is dismissed as against the first petitioner.

7.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 second petitioner shall be directed to make a non refundable deposit of Rs.25,000/- (Rupees Twenty 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.

8.It is made clear that the deposit of the amount by the second 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.

9.Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate (Crl. Side), I am inclined to grant bail to the second petitioner with certain conditions.

10. Accordingly, the second petitioner is ordered to be released on bail on the following conditions:

(a) the second petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) before the Superintendent of Central Prison, Vellore (on consideration of the request made by the learned counsel appearing for the petitioner), in which the second petitioner is confined and on such execution the second petitioner shall be released from prison;

(b) within a period of four weeks after the release, the second 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 learned Judicial Magistrate Court, Vandavasi, Thiruvannamalai District;

(c) in case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the second petitioner is permitted to file appropriate petition within a period of four weeks therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated;

(d) the second petitioner shall make a non refundable deposit of Rs.25,000/- (Rupees Twenty Five 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 second petitioner;

(e) 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;

(f) the second petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

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

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

(i) 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 second 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]; and;

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

-sd/-
30/06/2021

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 COURT,
VANDAVASI, THIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE OFFICER INCHARGE
SUB-JAIL, VANDAVASI,
THIRUVANNAMALAI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
KILKODUNGALORE POLICE STATION,
TIRUVANNAMALAI DISTRICT.

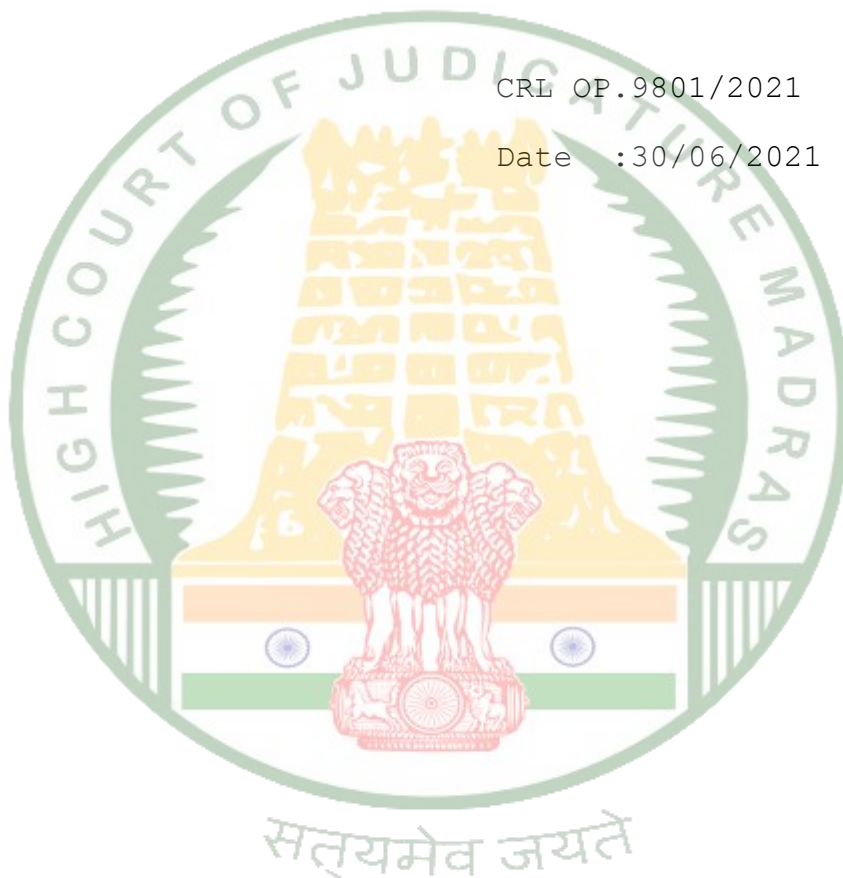
7 THE CHAIRMAN/ DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THIRUVANNAMALAI.

+1 CC to M/S.S.N.ARUNKUMAR Advocate on payment of necessary charges
SR.No.6934

CRL OP.9801/2021

Date :30/06/2021

cs 01/07/2021



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