

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.06.2021

CORAM :

THE HON'BLE MR. JUSTICE M.SUNDAR

Crl.O.P.No.9958 of 2021

1.Baba @ Periyannan  
2.Madhu @ Madhayan  
3.Senthil  
4.Arulmurugan  
5.Arjunan

...Petitioners /Accused 1 to 5

Vs.

State by,  
The Inspector of Police  
Kambainallur Police Station  
Dharmapuri District.  
(Crime No.209 of 2021)  
(District amended vide this order)

... Respondent/complainant

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.209 of 2021 pending investigation on the file of the respondent police.

For Petitioners : Mr.M.Jayachandran

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

O R D E R

(The case has been heard through video conference)

There are five petitioners in all in captioned Criminal OP.

2. Five petitioners herein apprehending arrest by State for alleged offences / alleged offences punishable under Sections 379 of the 'Indian Penal Code' ('IPC' for the sake of brevity) read with Section 21(1) (IV) of Mines & Minerals (Development & Regulation ) Act, 1957, vide Crime No.209 of 2021 on the file of Kambainallur Police Station have filed captioned Criminal OP under Section 438 of 'The Code of Criminal Procedure, 1973'('Cr.P.C.'for the sake of brevity).

3. Mr. Jayachandran, counsel for petitioners, advertng to the 'First Information Report' ('FIR') submits that, even according to the prosecution, the alleged seizure was Norambu Sand (நொரம்பு மண்) and more importantly, even according to the prosecution (FIR), excavation was from private land of one Pavunu (பவுனு).

4. State counsel submits that even if the excavation is from private land, transportation requires permission from the Jurisdictional Revenue Authorities and absent such permission, it is an offence.

5. Be that as it may, it is seen that petitioners 4 and 5, who have been arrayed A4 and A5 respectively are the owners of the vehicles and the others are employees.

6. Owing to the seizure being that of Norambu Sand (நொரம்பு மண்), which this Court is informed is being used as gravel in pathways in agricultural lands and in the light of the narrative thus far, this Court is inclined to accede to the prayer for anticipatory bail albeit subject to conditions adumbrated infra elsewhere in this order.

7. This Court is informed that the case is tried by a Special Court and the designated Special Court is 'Principal District Judge, Dharmapuri'.

8. In the cause title, as far as the respondent police station is concerned, there is no disputation that Kambainallur Police Station, which we are concerned with is in Dharmapuri District and not in Krishnagiri District, as wrongly mentioned in the cause title in the petition. Learned counsel for the respondent regrets this error and submits that it is inadvertent secretarial error. Therefore, the respondent in the captioned petition shall be read as 'Kambainallur Police Station, Dharmapuri District', instead of Krishnagiri District.

9. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance before the learned Principal District Judge, Dharmapuri, on execution a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties, each for a like sum to the satisfaction of the jurisdictional Magistrate on or before 05.07.2021 or within a fortnight from the date of resumption of work of acceptance of sureties by the jurisdictional Magistrate whichever is later and on further conditions that:

(a) Petitioners 4 and 5 should pay a sum of Rs.12,500/- (Rupees Twelve Thousand Five Hundred Only) each (Rs.25,000/- in all) towards the Covid Relief Fund, in favour of the District Medical Officer, Dharmapuri, within a fortnight from the date of receipt of a copy of this order either by way of Demand Draft (DD) or by fund transfer;

(b) the petitioners and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the jurisdictional Magistrate may direct production of their Aadhar cards or Bank pass Books to ensure / verify their identities;

(c) the petitioners shall report before the respondent police as and when required for interrogation;

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

(e) the petitioners shall not abscond either during investigation or trial;

(f) If there is breach of any of the aforesaid conditions, the learned jurisdictional 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 jurisdictional Magistrate/Trial Court itself as per P.K.Shaji principle being law laid down by Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560];

and

(g) Though obvious, it is made clear that if the accused thereafter absconds, consequences ingrained in Section 229-A I.P.C. will follow wherever applicable.

-sd/-

07/06/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

WEB COPY

Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL DISTRICT  
JUDGE, DHARMAPURI

2 THE DISTRICT MEDICAL OFFICER,  
DHARMAPURI

3 THE INSPECTOR OF POLICE,  
KAMBAINALLUR POLICE STATION,  
DHARMAPURI DISTRICT.

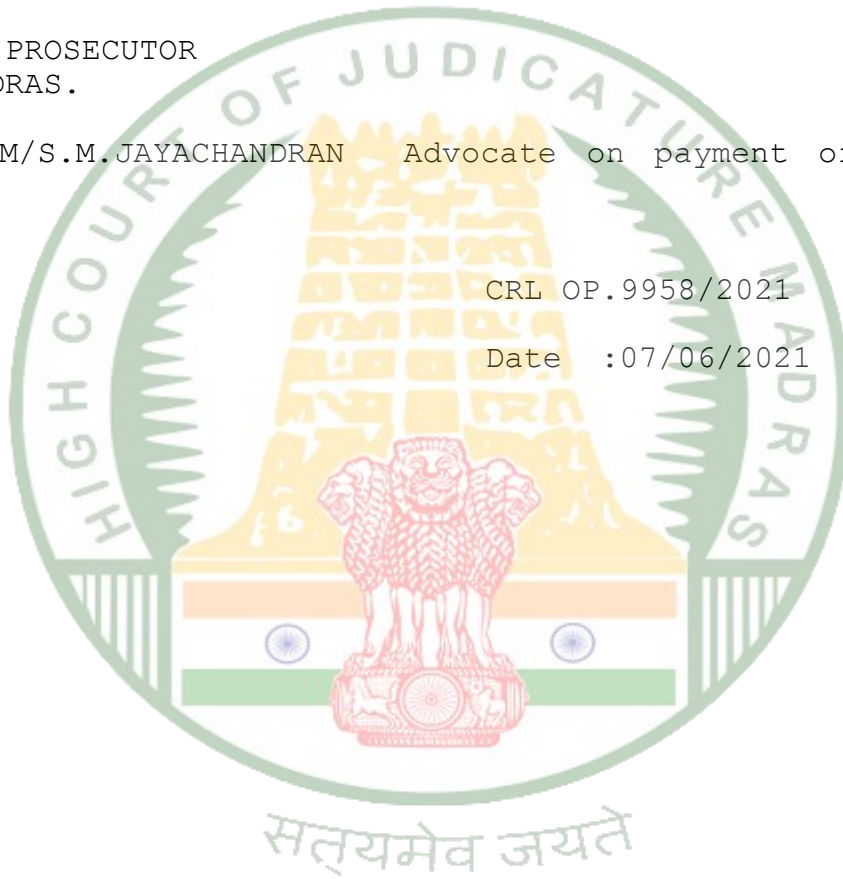
4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

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

CRL OP.9958/2021

Date :07/06/2021

RVR 09/07/2021



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