

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.10591 of 2021

Ayyappan

... Petitioner

Vs.

The State Rep. by its,
The Inspector of Police,
Velankanni Police Station,
Nagapattinam District.
(Crime No.351 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail pending investigation in Crime No.351 of 2021 on the file of the Inspector of Police, Velankanni Police Station, Nagapattinam District.

For Petitioner : M/s.W.Camyles Gandhi

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

ORDER

The petitioner who was arrested on 07.06.2021 and remanded to judicial custody for the offences under Section 379 & 430 IPC and Sec 21(1) of Mines and Minerals (Development & Regulation) Act 1957, in Cr.No.351 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in illegal possession of one unit of river sand by using a Tractor, without any permission. Hence, the law enforcing agency registered a case against the petitioner.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. However, on instructions, he would further submit that the petitioner, without prejudice to his rights, is ready to deposit a sum of Rs.50,000/- to the Mineral Foundation Trust.

4.The learned Government Advocate (Crl.Side) submitted that the vehicle involved was seized by the respondent police and that there is one previous case pending against the petitioner. 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.

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.50,000/- (Rupees Fifty 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. Considering the period of incarceration suffered by the petitioner and also the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the District Jail, Nagapattinam, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) Within a period of four weeks after the release, the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No-1, Nagapattinam;.

(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 petitioner is permitted to file appropriate petition within a period of four week 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 petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty 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 petitioner;

(e) 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;

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

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

(h) the 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 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/-

02/07/2021

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

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सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

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TO

1 THE JUDICIAL MAGISTRATE,
NO.I, NAGAPATTINAM

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
VELANKANNI POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGAPATTINAM

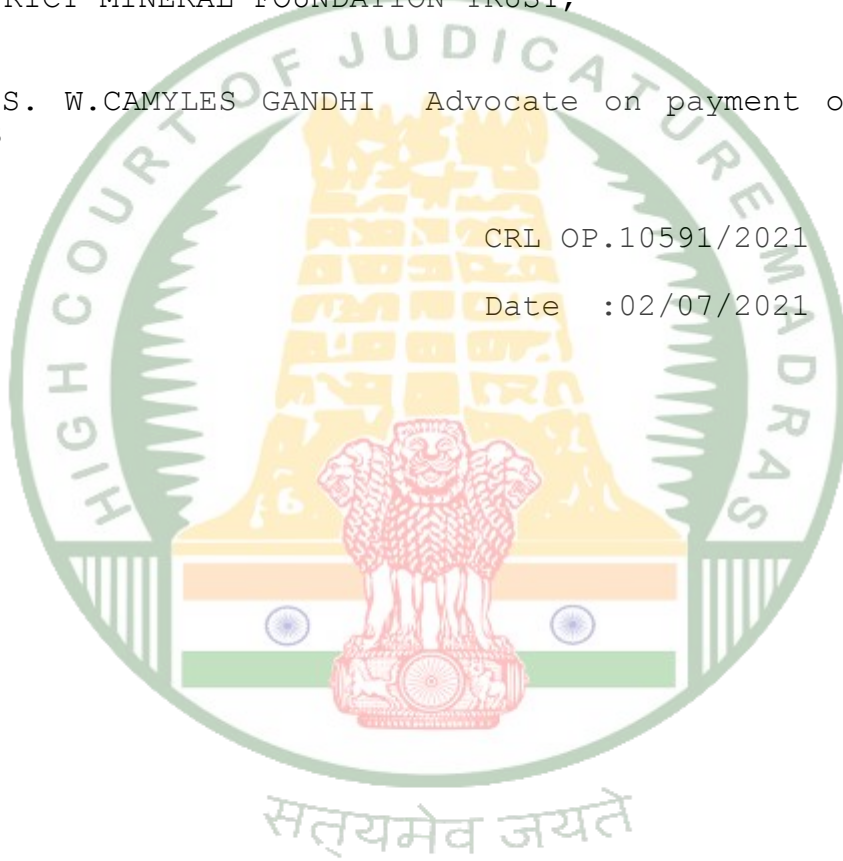
6 THE CHAIRMAN/DISTRICT
COLLECTOR, DISTRICT MINERAL FOUNDATION TRUST,
NAGAPATTINAM

CC to M/S. W.CAMYLES GANDHI Advocate on payment of necessary
charges Sr.7053

CRL OP.10591/2021

Date :02/07/2021

RVR 05/07/2021



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