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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.11495 of 2021

B.Namachivayam

..Petitioner

-Vs-

The State Rep. By
The Sub - Inspector of Police,
Voimedu Police Station,
Nagapattinam District.
Crime No.417 of 2021.

..Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.PC to enlarge the petitioner on bail in the event of his arrest in Crime No.417 of 2021 on the file of the Inspector of Police, Voimedu Police Station, Nagapattinam District.

For Petitioner : Mr.M.Senthil

For Respondent : Mr.C.E.Pratap
Government Advocate (Criminal Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Section 379 Indian Penal Code and 21 (1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.417 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner had illegally transported $\frac{1}{2}$ unit of Savudu sand by using tractor, without any permission. Hence, the complaint.

3.The learned counsel appearing for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. **However, on instructions, he further submitted that the petitioner, without prejudice to his rights, is ready to deposit the amount of Rs.20,000/- to the credit of the concerned District Mineral Foundation Trust.** Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (CrI. side) submitted that the vehicle involved was seized by the respondent police and there is no



previous case pending against the petitioner. He further submitted that if the person is caught with illegal sand in the mining area, necessarily he could be released on bail by imposing condition of deposit of any amount as may be ordered by this Court. In view of formation of District Mineral Foundation Trust in each District, the amount may directed to 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 may be directed to make a non refundable deposit of Rs.20,000/- (Rupees Twenty 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 anticipatory bail.

7. Considering the facts and circumstances of the case and also the fact that there is no previous case pending against the petitioner, I am inclined to grant anticipatory bail to the petitioner on certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Vedharanyam, Nagapattinam District, on condition that the 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioner shall deposit a sum of Rs.20,000/- (Rupees Twenty 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;



(c) the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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(d) the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

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

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

(g) 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;

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

-sd/-
05/07/2021

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

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

TO

1 THE JUDICIAL MAGISTRATE,
VEDHARANYAM, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
VOIMEDU POLICE STATION,
NAGAPATTINAM DISTRICT.



5 THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
NAGAPATTINAM.

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

CRL OP.11495/2021

Date :05/07/2021

TA-29/07/2021