

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.11694 of 2021

M.Selvamani

... Petitioner

Vs.

State represented by
Inspector of Police,
C-5, Oragadam Police Station,
Kanchipuram District.

... Respondent

Prayer:

Petition filed under Section 438 of Cr.P.C., seeking to enlarge the petitioner on anticipatory bail in the event of arrest in connection with the Crime No.488 of 2021 on the file of Oragadam Police Station, Kanchipuram District.

For Petitioner : Mr.N.Nanmaran

For Respondent : Mr.C.E.Pratap
for P.P.

ORDER

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Section 379 of I.P.C., 4(1) and 4(1A) of Mines and Minerals (Development and Regulation) Act, 1957 and The Tamilnadu Minor Mineral Concession Rules, 1959 and 21(1) based on the order as per GO dated 29.10.2018 and 09.09.2019 in Cr.No.488 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner was involved in illegal transportation of 4 units of sand.

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.40,000/- to the Mineral Foundation Trust.

4.The learned Government Advocate submitted that there is no previous case as against the 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.

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.40,000/- (Rupees Forty 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 considering the submission made by the learned Government Advocate, I am inclined to grant anticipatory bail to the petitioner with 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, Sriperumputhur, Kanchipuram 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 make a non refundable deposit of Rs.40,000/- (Rupees Forty 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;

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

(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 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;

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

-sd/-
08/07/2021

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,
SRIPERUMPUTHUR,
KANCHIPURAM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

WEB COPY

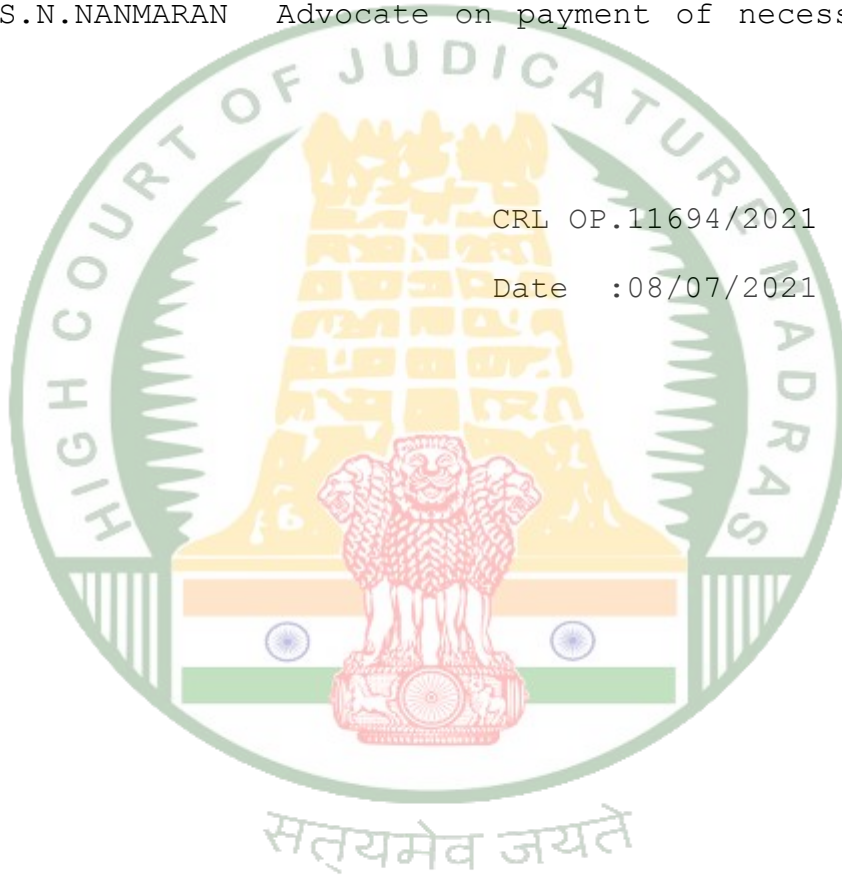
3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
C-5, ORAGADAM POLICE STATION,
KANCHIPURAM DISTRICT.

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

+2 CC to M/S.N.NANMARAN Advocate on payment of necessary charges
SR.No.7193

cs 14/07/2021



CRL OP.11694/2021

Date :08/07/2021

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