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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fourth day of August Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.13524 of 2021

1 CHINNATHAMBI [PETITIONERS / ACCUSED]
2 RAJESH
3 SELVAM @ SELVAN
4 ANNAMALAI

Vs

STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
KILPENNATHUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.
(CR.NO.514/2021)

For Petitioner : M/S.S.SILAMBUSELVAN Advocate

For Respondent : MR. C.E.PRATAP, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 379, 430 of IPC, in Crime No.514 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners had illegally transported 2 units of Morambu sand. Hence, the complaint.

3.The learned counsel appearing for the petitioners submit that the petitioners have not committed any offence as alleged by the prosecution. However, on instructions, he further submit that the petitioners, without prejudice to their rights, are ready to deposit the amount of Rs.20,000/- to the credit of the concerned District Mineral Foundation Trust.

4.The learned Government Advocate (Crl.Side) submitted that the vehicle involved was seized by the respondent police and there is no previous case pending against the petitioners. He further submitted that if the persons are caught with illegal sand in the mining area, necessarily they 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 be directed to be deposited to the credit of the said Trust for rehabilitation in the areas affected by illegal sand mining.

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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 petitioners, this Court is of the opinion that the petitioners 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 their 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 petitioners 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 submission made by the learned Government Advocate (Crl.Side), I am inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.2, Thiruvannamalai, on condition that the petitioners shall execute a separate 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 petitioners 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 petitioners shall make a non refundable deposit 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 their 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 petitioners shall report before the respondent police daily at 10.30 a.m. until further orders;

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

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(f)the petitioners 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/-
04/08/2021

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 NO.2,
THIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE,
THIRUVANNAMALAI DISTRICT. (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
KILPENNATHUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

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

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.S.SILAMBUSELVAN Advocate on payment of necessary charges SR.NO.8255

CRL OP.13524/2021

Date :04/08/2021

INBA 12/08/2021

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