



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.14095 of 2021

1. Sakthivel
2. Dhanapal

... Petitioners

Vs.

The State
Rep by the Inspector of Police,
Edappadi Police Station,
Salem District.
(Crime No.435 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail pertaining in Crime No.435 of 2021 on the file of the respondent police.

For Petitioners : Mr.R.Jayaprakash

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

ORDER

The petitioners who were arrested on 28.07.2021 and remanded to judicial custody for the offences under Sections 379 of IPC, 1860 r/w Section 21(1) of the Mines and Minerals (Development & Regulation) Act 1957, in Cr.No.435 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners had illegally transported of 4 units of sand by using a Tipper Lorry. Hence, the law enforcing agency registered a case against the petitioners.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution. However, on instructions, he would further submit that the petitioners, without prejudice to their rights, on their own volition, are ready to deposit a sum of Rs.25,000/- to the Mineral Foundation Trust and Rs.25,000/- to the Chief Educational Officer, Salem District, for the purpose of improving and maintaining the Government Schools. Therefore, he prays to grant bail to the petitioners.



4.The learned Government Advocate (Crl.Side) submitted that the vehicle involved was seized by the respondent police and that 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, they have 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 petitioners, this Court is of the opinion that the petitioners shall be directed to make a non refundable deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of the concerned District Mineral Foundation Trust and Rs.25,000/- to the Chief Educational Officer, Salem District, for the purpose of improving and maintaining the Government Schools, without prejudice to their rights and contentions. The amount so deposited shall be utilised by the Trust for rehabilitation works.

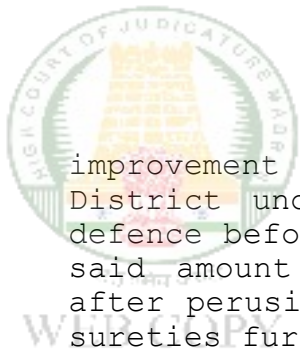
6.It is made clear that the deposit of the amount by the petitioners to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of bail.

7. Considering the period of incarceration suffered by the petitioners and also there is no previous case against the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on their executing 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 District Munsif-cum-Judicial Magistrate Court, Edappadi, and further conditions that:

(a) the first petitioner shall make non-refundable deposit a sum of Rs.25,000/- (Rupees Twenty Five 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;

(b) the second petitioner shall make a non-refundable deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of the Chief Educational Officer, Salem District for the rehabilitation and



improvement of the basic needs of the Government Schools in the said District under necessary acknowledgement, without prejudice to his defence before the trial Court and submit the proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the challan/ receipt/acknowledgement, shall accept the sureties furnished by the petitioner;

(c) the petitioners 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;

(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;

(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.

7. In the result, this Criminal Original Petition is ordered and the Chief Educational Officer shall submit the necessary proof with regard to the expenditure incurred for the improvement/rehabilitation of the Schools in the District before the Director of School Education as and when such works are completed by utilising the money as ordered by this Court.

-sd/-

12/08/2021

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.



1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE COURT, EDAPPADI

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
EDAPPADI POLICE STATION,
SALEM DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
SUB JAIL, ATTUR, SALEM

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

7 THE CHIEF EDUCATIONAL OFFICER
SALEM DISTRICT

CC to M/S R.JAYAPRAKASH Advocate on payment of necessary
charges Sr.8485

CRL OP.14095/2021

Date :12/08/2021

RVR 13/08/2021