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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.15743 of 2021

(*)JAYAMANIKANDAN @ BALLU [PETITIONER / ACCUSED]

Vs

STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
VIRUDAMPET POLICE STATION,
VIRUDAMPET,
VELLORE DISTRICT.
(CRIME NO.190 OF 2021)

For Petitioner : M/S.G.VINODHKUMAR Advocate
[CRL.O.P.NO.15743/2021]

M/S.M.SATHISH KUMAR Advocate
[CRL.M.P.NO.257/2022]

For Respondent : MR.C.E.PRATAP, Govt. Advocate (Crl. Side)
[CRL.O.P.NO.15743/2021]

MR.S.BALAJI, Govt. Advocate (Crl. Side)
[CRL.M.P.NO.257/2022]

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

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 379 & 430 of I.P.C r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Cr.No.190 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner was involved in illegal transportation of 5 bags of river sand weighing 125 kgs in Honda Activa Two wheeler.

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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 further submitted that the petitioner, without prejudice to his rights, is ready to deposit the amount a sum of Rs.10,000/- to the Mineral Foundation Trust.

4.The learned Government Advocate (Crl.Side) submitted that the vehicle involved was seized by the respondent police and 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.10,000/- (Rupees Ten 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 (Crl.Side), this court is 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 No-III, Vellore, 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;

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(b)the petitioner shall make a non refundable deposit of Rs.10,000/- (Rupees Ten 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/-
01/09/2021

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.

(*)AMENDED AS PER ORDER OF THIS COURT DATED 12/01/2022 MADE IN CRL.MP.No.257 OF 2022 IN CRL.O.P.NO.15743 OF 2021

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TO

1 THE JUDICIAL MAGISTRATE,
NO.III, VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
VIRUDAMPET POLICE STATION,
VIRUDAMPET, VELLORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1 CC to M/S.M.SATHISH KUMAR Advocate on payment of necessary charges SR.NO.668

CRL OP.15743/2021

Date :01/09/2021

JPA 13/09/2021

JPA 25/01/2022

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