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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.18026 of 2021

Andiappan

... Petitioner

Vs.

The State of Tamil Nadu
rep by Inspector of Police,
Karuppur Police Station,
Salem District.
(Crime No.288 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.288 of 2021 on the file of Karuppur Police Station, Salem District pending investigation.

For Petitioner : Mr.M.Devaraj

For Respondent : Mr.A,Gopinath
Government Advocate (Crl.Side)

ORDER

The petitioner who was arrested on 03.09.2021 and remanded to judicial custody for the offences under Section 379 of IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act, in Cr.No.288 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had illegally transported granite surplus stones by using a lorry. Hence, the law enforcing agency registered a case against the petitioner.

3.The learned counsel appearing for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution. However, on instructions, he further submits that the petitioner, without prejudice to his rights, on his own volition, is ready to deposit 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 that there is no previous case pending against the petitioner. He further submits 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.

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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 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 bail.

7. Considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing 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 **learned Judicial Magistrate No.1I, Salem**, and further conditions that:

(a) the petitioner shall make non-refundable deposit a sum 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;

(b) the petitioner 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;

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

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

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



(f) 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;

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

-sd/-
28/09/2021

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,
NO.II, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KARUPPUR POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

+1 CC to M/S. M.DEVARAJ Advocate on payment of necessary charges SR.NO.10658

CRL OP.18026/2021

Date :28/09/2021