



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Ninth day of October Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.20354 of 2021

S.BASKAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
ARNI TALUK POLICE STATION,
THIRUVANNAMALAI DISTRICT.
(CR. NO.1253/2021)

[RESPONDENT]

For Petitioner : M/S. T.P.PRABAKARAN Advocate

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

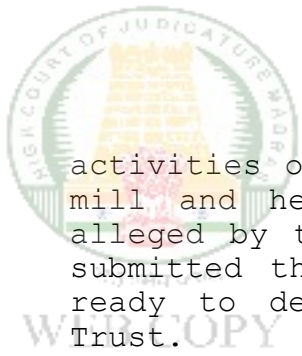
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 430 and 379 of I.P.C, seeks anticipatory bail.

2.The case of the prosecution is that it is alleged that on 23.10.2021, the defacto complainant along with Tahsildar, Arni and the Revenue Divisional Officer, while visiting the petitioner's rice mill, had found that inside the rice mill some 20 unit of sand was stored illegally and the said sand was kept without any permission from the Government or without having any license. Hence this complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case. He further submitted that the petitioner's father laid a cement surface 20 years ago on the open ground inside the said rice mill for drying of paddy. Since the rice mill business was adversely affected due to out-break of covid-19, the petitioner decided to remove the said cement surface and to construct a godown for commercial use and thereby, the said cement surface was broken, dismantled and removed for the said purpose. While removing the cement surface, the petitioner noticed that some amount of river sand was spread below the cement floor and therefore, he has removed the sand and kept it in a corner and utilized some of the sand for the construction



activities of godown and the remaining sand was kept inside his rice mill and hence, the petitioner has not committed any offence as alleged by the prosecution and however, on instructions, he further submitted that the petitioner, without prejudice to his rights, is ready to deposit a sum of Rs.50,000/- to the Mineral Foundation Trust.

4.The learned Government Advocate (Crl.Side) submitted that the sand was seized by the respondent police and he further submitted that if the person is caught with illegal sand, 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.50,000/- (Rupees Fifty 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), 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 Judicial Magistrate, Arni, 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.50,000/- (Rupees Fifty 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;

WEB COPY

(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 379 IPC.

-sd/-

29/10/2021

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,
ARNI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
ARNI TALUK POLICE STATION,
THIRUVANNAMALAI DISTRICT.



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

WEB COPY
5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. T.P.PRABAKARAN Advocate on payment of necessary
charges SR.NO.12123

CRL OP.20354/2021

Date :29/10/2021

CSK 10/11/2021