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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the First day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.20478 of 2021

K. PANNERSELVAM [PETITIONER / ACCUSED]

Vs

STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
MOOLANUR POLICE STATION,
TIRUPPUR DISTRICT.
CR.NO.630 OF 2021.

For Petitioner : M/S. M.GURUPRASAD 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 for the alleged offence under Section 379 of IPC r/w Section 21(1) of the Prevention of Mines and Minerals (D&R) Act, 1957 in Crime No.630 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner has illegally stored 11 units of river sand in his house.

3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution. He further submitted that this Court had already granted anticipatory bail to the co-accused person in Crl.O.P.No.18498 of 2021 dated 04.10.2021. However, on instructions, he further submitted that the petitioner, without prejudice to his rights, and on his own volition is ready to deposit a sum of Rs.50,000/- to the Mineral Foundation Trust that may be imposed by this Court.

4.The learned Government Advocate (Crl.Side) submitted that the petitioner has illegally stored 11 units of river sand in his house and the same was seized by the respondent police and there are three previous cases pending against the petitioner. He further submitted

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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 directed to 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 may 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.Considering the facts and circumstances of the case and also considering the submission made by both the counsels, this Court is inclined to grant anticipatory bail to the petitioner on certain conditions.

7. 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.

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, Dharapuram, 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;

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(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/-
01/11/2021

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,
DHARAPURAM.

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

3 THE INSPECTOR OF POLICE,
MOOLANUR POLICE STATION,
TIRUPPUR DISTRICT.

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4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

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

+1 CC to M/S. M.GURUPRASAD Advocate on payment of necessary charges SR.NO.12408

CRL OP.20478/2021

Date :01/11/2021

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