



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/08/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.6517 of 2021

1. Mongaiah @ Mugeshkannan

2. Rajkumar ... Petitioners/Accused Nos. 15&19

-Vs-

State Rep by
The Inspector of Police,
Saptur Police Station,
Madurai District
Cr.No.66/2021.

... Respondent/Complainant

For Petitioner : M/s.Palanisamy.T.,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Spl. Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.66 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 143, 188, 353, 506(i) and 379 IPC r/w Sections 4(1)(1A), 21(1) of the Mines and Minerals (Development and Regulation)Act, 1957 in Crime No.66 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the petitioners have illegally taken sand for the purpose of brick work in seven tractors, on 25.04.2021 and on the basis of complaint given by the Village Administrative Officer, the present case came to be registered.



3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case.

4.The learned Government Advocate(Crl.side) appearing for the respondent police submitted that the petitioners herein are arrayed as A15 & A19 and there is no previous case pending against them.

5.Considering the facts and circumstances of the case and the fact that the petitioners have not indulged in any other similar offence, this Court is inclined to grant anticipatory bail to the petitioners on condition that the petitioners shall pay a sum of Rs.5,000/- (Rupees Five Thousand only)each to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the Special Court, in the cadre of learned District Judge(Mines and Minerals Cases) Madurai.

6.On depositing the above said amount, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Special Court, in the cadre of learned District Judge(Mines and Minerals Cases) Madurai on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]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.

[b]the petitioners shall report before respondent police daily at 10.30 am., until further orders.

[c]the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d]the petitioners shall not abscond either during investigation or trial.

[e]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]**.



[f]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

7.It is needless to say that any tool or instrument or vehicle used for illegal quarrying/ transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals(Development & Regulation) Act, 1957 and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act, 1957, is liable to be confiscated under Section 21(4-A) of the Act.

8.Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities, have not invoked the provision of 21 (4-A) of the Mines and Minerals(Development & Regulation) Act, 1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasised the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals(Development & Regulation) Act, 1957 and as per the guidelines issued in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020.

sd/-
03/08/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1 THE DISTRICT JUDGE
SPECIAL COURT (MINES AND MINERALS CASES)
MADURAI

2 THE INSPECTOR OF POLICE
SAPTUR POLICE STATION
MADURAI DISTRICT

3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER-IN-CHARGE
CHIEF MINISTER PUBLIC RELIEF FUND
GOVT.OF TAMIL NADU
IOB SECRETARIAT BRANCH
CHENNAI-9

ORDER
IN
CRL OP (MD) No.6517 of 2021
Date :03/08/2021

PKP/JM/SAR3/09/08/2021:P4:5C