



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 04/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.10020 of 2021

WEB COPY

G.Sekar

... Petitioner/Sole Accused

Vs

State represented by,
The Inspector of Police,
Maruvur Police Station,
Thanjavur District.

... Respondents/Complainant

For Petitioner : M/s Sivasubramanian A,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-For Bail in Crime No. 116 of 2021 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 10.07.2021 for the alleged offences under Sections 379 of IPC r/w. 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.116 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was illegally collecting 1/4 unit of river sand by using bullock cart.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and a false case has been foisted against him. However, to show his bona fide, he has come forward to pay a sum of Rs.10,000/- to the Chief Minister's Relief Fund. He would also submit that the petitioner is in jail from 10.07.2021, hence he seeks bail.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner is not having any bad antecedents.

5. Considering the period of incarceration and also the fact that the petitioner is not having any bad antecedents, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten

<https://hcservices.ecourts.gov.in/hcservices>



thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Thiruvaiyaru and on further condition that:

[a]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 petitioner shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) as non refundable amount to the account of Tamil Nadu Chief Minister's Relief Fund. The petitioner shall execute the sureties on showing the receipt of the said amount.

[c]the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

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

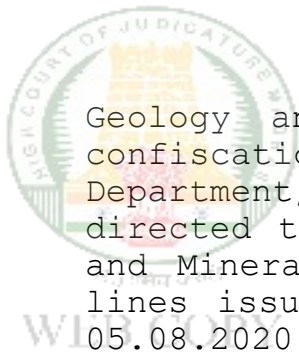
[e]the petitioner shall not tamper with evidence or witness either during investigation or trial.

[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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A 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 and if any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation)Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation)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 emphasized 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 and as per the guide lines issued in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020.

sd/-
04/08/2021

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

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 JUDICIAL MAGISTRATE,
THIRUVAIYARU.
- 2.-DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJORE DISTRICT.
- 3.THE OFFICER INCHARGE,
SUB JAIL, THANJAVUR.
- 4.THE OFFICER INCHARGE,
TAMIL NADU CHIEF MINISTER RELIEF FUND,
SECRETARIAT, CHENNAI.
- 5.THE INSPECTOR OF POLICE,
MARUVUR POLICE STATION,
THANJAVUR DISTRICT.
- 6.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10020 of 2021
Date :04/08/2021

OGY
RT/JM/SAR-III/04.08.2021/3P/7C