



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/08/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.10721 of 2021

V.Karuppan

... Petitioners/Accused No.2

Vs

The State Represented by
The Inspector of Police,
Othakkadai Police Station,
Madurai.

... Respondent/Complainant

For Petitioner : Mr.V.Nagendran,
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.429 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested on 15.07.2021 for the offences punishable under Sections 379 of IPC r/w. 21(5) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.429 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was illegally transporting one unit of river sand by using tractor and trailer.

3. The learned counsel for the petitioner submits that the petitioner is an innocent and he has been falsely implicated in this case. However, to show his bona fide, the petitioner is ready to pay some amount to the Chief Minister's Relief Fund.

4. The learned Government Advocate (Crl. Side) submits that the petitioner is not having any bad antecedent.



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

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 thousand only) with two sureties each for a like sum to the satisfaction of the Special District Court to deal with the cases of offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, Madurai and on further conditions 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 pay a sum of **Rs.15,000/- (Rupees Fifteen Thousand only) to the Tamil Nadu Chief Minister's Relief Fund** and produce the receipt/acknowledgment before the concerned Court while executing sureties.

[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.

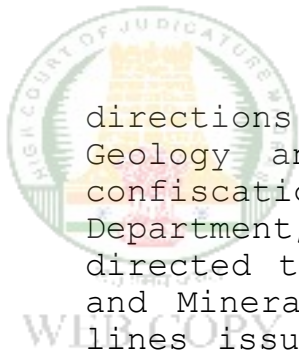
[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[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 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 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 and as per the guidelines issued in G.O.Ms.No.170, Industries MMC-II Department, dated 05.08.2020.

sd/-
05/08/2021

/ TRUE COPY /

/ /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 SPECIAL DISTRICT JUDGE,
MINES AND MINERALS ACT, MADURAI.

2.DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3.THE SUPERINTENDENT,
CENTRAL JAIL, MADURAI.

4.THE INSPECTOR OF POLICE
OTHAKKADAI POLICE STATION, MADURAI.

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

6.THE OFFICER INCHARGE,
TAMIL NADU CHIEF MINISTERS RELIEF FUND,
GOVERNMENT OF TAMIL NADU, SECRETARIAT,
CHENNAI - 09.

+1. CC to Mr.V.NAGENDRAN, Advocate SR.No.25319 dated 05/08/2021.

ORDER
IN
CRL OP(MD) No.10721 of 2021
Date :05/08/2021

SS/VR/SAR-I/05.08.2021 : 3P/8C

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