



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 16/08/2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.11555 of 2021

1. Marisamy
2. Ayyanar

... Petitioners/Accused No.3 and 5

Vs

The State rep.by,
The Inspector of Police,
Aviyur Police Station,
Virudhunagar District.
Crime No.89/2021.

... Respondent/Complainant

For Petitioner : Mr.D.Farjana Ghoushia, Advocate.
For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

PRAYER :-For Bail in Cr.No.89 of 2021 on the file of the respondent police.

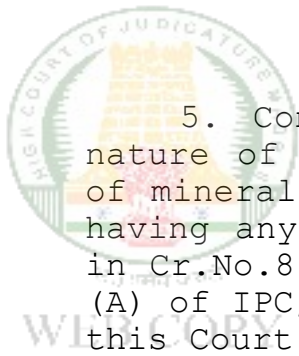
ORDER : The Court made the following order :-

The petitioners/A3 and A5, who were arrested on 04.08.2021 for the offences punishable under Sections 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, in Crime No.89 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners have illegally taken and transported 1 ¼ unit of soil from kanmai.

3. The learned counsel for the petitioner submitted that the petitioners are innocents and they have not committed any offence as alleged by the prosecution.

4. The learned Government Advocate (Crl. Side) opposed for grant of bail on the ground that the investigation is yet to be completed. However, he fairly submitted that sofar as A3 is concerned, there is no previous case as against him. Insofar as A5 is concerned, he is having one previous case in Cr.No.8 of 2018 for the offences under Sections 279, 338 and 304(A) of IPC, but, he has not indulged in any offence of similar in nature.



5. Considering the facts and circumstances of the case, the nature of allegations levelled against the petitioners, the nature of minerals involved in this case and also the fact that A3 is not having any previous case and though A5 is having one previous case in Cr.No.8 of 2018 for the offences under Sections 279, 338 and 304 (A) of IPC, he has not indulged in any offence of similar in nature, this Court is inclined to grant bail to the petitioners.

6. Accordingly, this Criminal Original Petition is ordered. The petitioners are directed to be released on bail on their executing 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 Principal District and Sessions Judge, Srivilliputhur at Virudhunagar District 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 petitioners shall file an undertaking affidavit in Tamil that they will not indulge in any other offence in future, before the concerned Judicial Magistrate as well as before the concerned Police Station. On filing the undertaking affidavit, the concerned Judicial Magistrate shall accept the sureties. The undertaking affidavit should be attested by the concerned Superintendent of Jail authority.

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

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

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

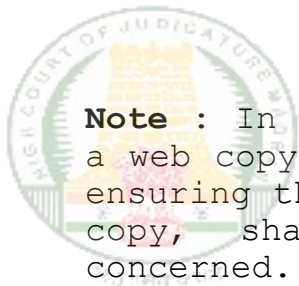
[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down 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.

sd/-
16/08/2021

/ 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.

WEB COPY

TO

- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.
- 2 THE OFFICER INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.
- 3 THE INSPECTOR OF POLICE
AVIYUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.11555 of 2021

Date :16/08/2021

OGY

MK/PN/SAR.IV/16.08.2021/3P/5C