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CRL OP(MD)No.12264 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 26.08.2021

PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP (MD)No.12264 of 2021

GAJENDRAN

... PETITIONER/SOLE ACCUSED

VS

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
THIRUVAIYARU POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO. 1246/2020).

... RESPONDENT/COMPLAINANT

For Petitioner : Mr.S.T.Sasidharam Tamilkani,
Advocate

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.1246 of 2020 on the file of the respondent Police.

ORDER : The Court made the following order :

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.1246 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and others have illegally transported 1/4 unit of river sand in bullock carts. Hence, the present case has been registered.



3.Learned Counsel for the petitioner submits that the petitioner is an innocent and has not committed any offence as alleged by the prosecution. However, a false case has been foisted as against him and therefore, prays for grant of anticipatory bail.

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4.Learned Government Advocate (Crl.side) appearing for the respondent police, on instructions, submits that the petitioner and others have involved in illegal transportation of river sand. He further submits that apart from this case, the petitioner is having four previous cases to his credit. The details of such cases are as follows:

i)Thiruvaiyaru Police Station, Cr.No.207 of 2021, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

ii)Thiruvaiyaru Police Station, Cr.No.1242 of 2020, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

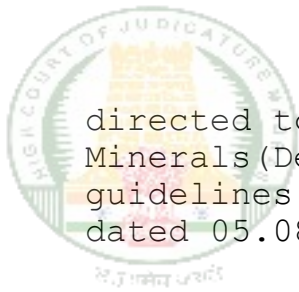
iii)Thiruvaiyaru Police Station, Cr.No.1396 of 2020, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

iv)Thiruvaiyaru Police Station, Cr.No.1470 of 2020, u/s.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act.

5.Considering the facts and circumstances of the case, the nature of mineral transported and the antecedents of the petitioner, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this criminal original petition stands dismissed.

6.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.

7.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 under Section 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. 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.

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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 INSPECTOR OF POLICE,
THIRUVAIYARU POLICE STATION,
THANJAVUR DISTRICT.
2. ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-5745[I] dated 27/08/2021

ORDER
IN
CRL OP(MD) No.12264 of 2021
Date :26/08/2021

gk
USK/JC/SAR-I/07.09.2021/3P/4C