



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

Date : 27/08/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12356 of 2021

Kallungadiyan

... Petitioner/Accused(Sole)

Vs

The State rep.by
The Inspector of Police,
Ramanathapuram Bazaar Police Station
Ramanathapuram District
Crime No.365 of 2021.

... Respondent/Complainant

For Petitioner : Mr.C.SENTHIL MURUGAN,
Advocate.

For Respondent : Mr.E.ANTONY SAHAYA PRABAHAR,
Government Advocate (Crl.Side)

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

PRAYER :-

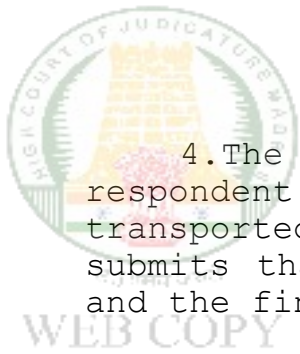
For Bail in Crime No.365 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 16.08.2021 for the offences punishable under Section 379 I.P.C r/w Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.365 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner has illegally transported 1 ½ units of river sand by using a tractor.

3.The learned counsel for the petitioner submits that the petitioner is an innocent, he has not committed any offence as alleged by the prosecution. However, in order to show his bona fide, he is ready to pay Rs.5,000/- to the Tamil Nadu Chief Minister's Public Relief Fund without prejudice to his defence before the trial Court. He would further submit that the petitioner is inside the prison from 16.08.2021 and hence, he seeks for grant of bail.



4.The learned Government Advocate (Crl. Side) appearing for the respondent police submits that the petitioner has illegally transported 1 ½ units of river sand by using a tractor. He further submits that the petitioner has not involved in any other offences and the final report is yet to be filed.

5.Considering the nature of mineral involved, the antecedents of the petitioner, his willingness to pay a sum of Rs.5,000/- to the Tamil Nadu Chief Minister's Public Relief Fund and also the period of incarceration, this Court is inclined to grant bail to the petitioner.

6. Accordingly, this Criminal Original Petition is allowed and 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 Judicial Magistrate No.I, Ramanathapuram 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.5,000/- (Rupees five thousand only) 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 his defence before the trial Court 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, 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-2) 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-2) Department, dated 05.08.2020.

sd/-
27/08/2021

/ 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 JUDICIAL MAGISTRATE NO.I, RAMANATHAPURAM.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE OFFICER INCHARGE
DISTRICT PRISON, RAMANATHAPURAM.
4. THE INSPECTOR OF POLICE,
RAMANATHAPURAM BAZAAR POLICE STATION
RAMANATHAPURAM DISTRICT
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



COPY TO:

THE OFFICER INCHARGE,
GOVERNMENT OF TAMIL NADU,
CHIEF MINISTER PUBLIC RELIEF FUND,
SECRETARIAT, CHENNAI-9.

ORDER

IN

CRL OP(MD) No.12356 of 2021

Date :27/08/2021

SA/VR/SAR.4/27.08.2021/4P/7C