



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 20/09/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.13904 of 2021

1.Balamurugan
2.Thirisangu

... Petitioners/Accused Nos.2&4

Vs

The State rep.by,
The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
(Under Crime No.455 of 2021)

... Respondent/Complainant

For Petitioners : Mr.K.R.Laxman, Advocate.
For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-For Bail in Crime No.455 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A2 & A4, who were arrested on 30.08.2021 for the offence punishable under Section 379 I.P.C and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.455 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners have illegally transported one unit of river sand in a tractor. Hence, the complaint.

3.The learned counsel for the petitioners submits that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. They are inside the prison from 30.08.2021 and hence, he seeks for grant of bail.

4.The learned Additional Public Prosecutor appearing for the respondent police opposed for grant of bail on the ground that the investigation is yet to be completed. He further submits that that the first petitioner is having three previous cases and the second petitioner is having two previous cases.



5. At this juncture, the learned counsel for the petitioners submits that the petitioners will not indulge in any such offences in future. He is also ready to file an undertaking affidavit before the respondent police as well as before the trial Court to that effect.

6. Considering the nature of mineral involved, the antecedents of the petitioners, their willingness to file an undertaking affidavit and the period of incarceration, this Court is inclined to grant bail to the petitioners.

7. 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.25,000/- (Rupees twenty five thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Kamuthi, Ramanathapuram 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 before the respondent police as well as before the trial Court that they will not indulge in any other offences in future.

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

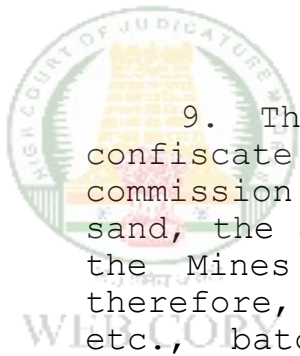
[d] the petitioners shall not abscond either during investigation or trial.

[e] the petitioners shall not tamper with the 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

8. 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.



9. 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 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-2 Department, dated 05.08.2020.

sd/-
20/09/2021

/ 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,
KAMUTHI, RAMANATHAPURAM DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
- 3 THE INSPECTOR OF POLICE
ABIRAMAM POLICE STATION, RAMANATHAPURAM DISTRICT.
- 4 THE OFFICER INCHARGE,
SUB JAIL, TIRUPATTUR, SIVAGANGAI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13904 of 2021
Date :20/09/2021

MK/VR/SAR.II/20.09.2021/3P/6C