



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 30/09/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.14688 of 2021

1.Sesuraj @ Jesuraj
2.Pitchaikannu

... Petitioners/Accused Nos.1 & 2

Vs

The State rep.by
The Inspector of Police,
Thiruvadanai Police Station
Ramanathapuram District.
(Crime No.251 of 2021).

... Respondent/Complainant

For Petitioners : Mr.D.RAMESHKUMAR,
Advocate.

For Respondent : Mr.T.SENTHIL KUMAR,
Additional Public Prosecutor(crl.side)

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

PRAYER :-

For Bail in Crime No.251 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 to A2, who were arrested on 21.09.2021 for the offence under Section 379 IPC & 21(1) Mines & Minerals (Development and Regulation) Act, 1957, in Crime No.251 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the accused persons have illegally transported one unit of river sand by using the JCB and Tractor. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents, they have not committed any offence as alleged by the prosecution, they are in jail from 21.09.2021 and hence, he seeks for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that one unit of river sand was



illegally transported by the petitioners. He would further submit that the investigation is yet to be completed and there is no adverse antecedent as against the petitioners.

5. Considering the nature of mineral involved, the antecedents of the petitioners and also the period of incarceration, this Court is inclined to grant bail to the petitioners on certain conditions.

6. Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered 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, Thiruvadanai, Ramanathapuram District and on further condition 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 Aadhaar card or bank pass book to ensure their identity.

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

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

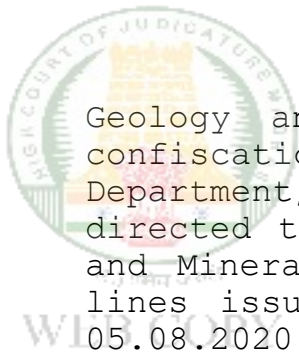
[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners /A1 and A2 in accordance with law as if the conditions have been imposed and the petitioners /A1 and A2 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 230-A 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



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/-
30/09/2021

/ 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
THIRUVADANAI, RAMANATHAPURAM DISTRICT.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
- 3.THE OFFICER INCHARGE,
DISTRICT PRISON,
RAMANATHAPURAM.
- 4.THE INSPECTOR OF POLICE,
THIRUVADANAI POLICE STATION
RAMANATHAPURAM DISTRICT.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

**ORDER
IN**

CRL OP(MD) No.14688 of 2021
Date :30/09/2021

SA/PN/SAR.2/30.09.2021/3P/6C