



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 07/10/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.15322 of 2021

Karuppaiah @ Karuppu

.... Petitioner/Accused No.3

Vs

The State rep.by
The Inspector of Police,
Uchipuli Police Station
Ramanathapuram District
Crime No.366 of 2021

... Respondent/Complainant

For Petitioner : Mr.L.MAHENDRAN
Advocate.

For Mr.C.SUSIKUMAR
Advocate

For Respondent : Mr.A.THIRUVADI KUMAR
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No. 366 of 2021 on the file of the respondent police.

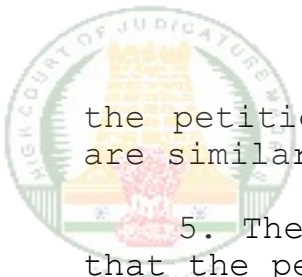
ORDER : The Court made the following order :-

The petitioner/A3, who was arrested on 23.09.2021 for the offence under Section 379 I.P.C and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime.No.366 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and other accused have illegally transported 1 ½ units of river sand by using a tractor. Hence, the complaint.

3.The learned counsel appearing for the petitioner submits that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He further submits that the petitioner is in jail from 23.09.2021 and hence, he seeks for grant of bail.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that that the investigation is yet to be completed. He would further submit that apart from this case,



the petitioner is having four previous cases, in which, two cases are similar in nature.

5. The learned counsel for the petitioner, in response, submits that the petitioner is ready to file an undertaking affidavit before the respondent police as well as before the trial Court that he will not indulge in any other offence in future.

6. Considering the nature of mineral involved, the submission that the petitioner is ready to file an undertaking affidavit and also the period of incarceration, this Court is inclined to grant bail to the petitioner, however, with stringent condition.

7. 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.50,000/- (Rupees fifty thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Ramanathapuram 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] if the petitioner involves in any further offence, action shall be taken as against the sureties and the sureties amount shall be impounded.

[c] the petitioner shall file an undertaking affidavit before the respondent police as well as before the trial Court that he will not indulge in any other offence in future.

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

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

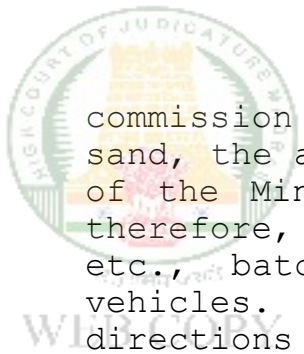
[f] the petitioner shall not abscond either during investigation or trial.

[g] 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 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]**.

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-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
<https://hcservices.courts.gov.in/hcservices/> seize 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/-

07/10/2021

/ TRUE COPY /

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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 JUDICIAL MAGISTRATE NO.II, RAMANATHAPURAM.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
4. THE INSPECTOR OF POLICE,
UCHIPULI POLICE STATION
RAMANATHAPURAM DISTRICT
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.15322 of 2021

Date : 07/10/2021

SA/JM/SAR.3/07.10.2021/3P/6C