



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

Date : 08/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.15445 of 2021

1.Ramkumar
S/o.Arumugam

2.Ramachandran
S/o.Sivasamy

3.Bharathirajan
S/o.Rengasamy

... Petitioners/Accused Nos.1 to 3

Vs

State rep by
The Inspector of Police,
Thiruvadanai Police Station
Ramanathapuram District
Crime No.262 of 2021

... Respondent/Complainant

For Petitioners : Mr.G.Thalaimutharasu
Advocate

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.262 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 to A3, who were arrested on 30.09.2021 for the offence under Sections 294(b), 353, 506(ii) and 379 I.P.C r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime.No. 262 of 2021 on the file of the respondent



2.The case of the prosecution is that the petitioners and other accused have illegally transported ½ unit of river sand by using JCB and Tractor bearing Registration Nos.TN-65-AM-0430, TN-25-AF-3948 and TN-65-L-1330. Hence, the complaint.

3.The learned counsel appearing for the petitioners submits that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. He further submits that the petitioners are in jail from 30.09.2021 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 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.

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 Court, Thiruvadanai 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 petitioner 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 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]**.

[f] If the accused thereafter abscond, 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 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/-
08/10/2021

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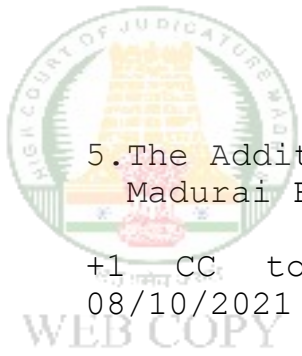
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

msa

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
- 2.The Chief Judicial Magistrate,
Ramanathapuram.
- 3.The Officer Incharge,
Sub Jail, Paramakudi
- 4.The Inspector of Police,
Thiruvadanai Police Station



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-7097[I] dated
08/10/2021)

ORDER IN
CRL OP(MD) No.15445 of 2021
Date : 08/10/2021

VB/JM/SAR-IV/08.10.2021/4P/7C