



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/11/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.16830 of 2021

Gopalakrishnan ... Petitioners/Accused Nos.1

Vs

The state represented by
The Inspector of Police,
Devipatinam Police Station,
Ramanthapuram District.
(Crime No. 310 of 2021). ... Respondent/Complainant

For Petitioner : Mr.B.Arun,
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.310 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 17.10.2021 for the offence punishable under Sections 294(b), 353, 506(ii), 379 IPC r/w Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.310 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner has illegally transported $\frac{3}{4}$ unit of beach sand in an unregistered tractor. Hence, the complaint.

3.The learned counsel for the petitioner submits that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. However, he is inside the prison from 17.10.2021. Hence, he prays for grant of bail.



4.The learned Additional Public Prosecutor appearing for the respondent opposed for grant of bail on the ground that the petitioner is having one previous case.

5.Considering the nature of mineral involved and also the period of incarceration, this Court is inclined to grant bail to the petitioner.

6. Accordingly, this Criminal Original Petition is ordered. The petitioner is directed to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned 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 report before the respondent police daily at 10.30 a.m. until further order;

[c]the petitioner shall not abscond either during investigation or trial;

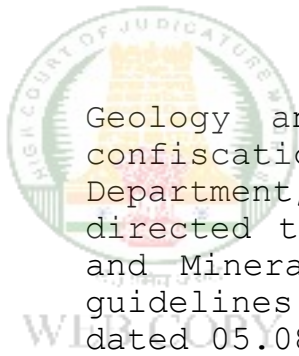
[d]the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the 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]**;

[f] 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 under Section 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 emphasized 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-II) 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-II) Department, dated 05.08.2020.

sd/-
01/11/2021

/ 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.
- 3 THE OFFICER INCHARGE,
DISTRICT JAIL, RAMANATHAPURAM.
- 4 THE INSPECTOR OF POLICE
DEVIPATINAM POLICE STATION,
RAMANTHAPURAM DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.ARUN.B, Advocate SR.No.7738

ORDER
IN
CRL OP(MD) No.16830 of 2021
Date :01/11/2021

PNM/OGY
SS/VR/SAR-I/01.11.2021 : 3P/7C