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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.1791 of 2022

B.Shanmugam

...Petitioner

Vs.

The State Represented by
The Inspector of Police,
Uddanappali Police Station,
Krishnagiri District.
(Crime No.8 of 2022)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest by the respondent police concerned in crime No.8 of 2022, on the file of the respondent Police.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest for the alleged offence under Sections 379 of IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Cr.No.8 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the complaint was lodged by the Inspector of the Hindu Religious and Charitable Endowment Department, Denkanikottai, Krishnagiri District. As per the complaint, the property measuring 1-68-00 hectares of land in Survey No.575, situated in Nagamangalam Village belong to Hanumanthaswamy Temple and adjacent land an extent of 452 of rocky Poromboke land in Survey No.629 remained unclassified. It is alleged that the 1st informant came to know that M/s.God Granites allegedly owned by the petitioner herein had taken the Government land in Survey No.629 on lease for a period, 1995-2005 to quarry granites. It is further alleged that the said M/s.God Granites had clandestinely quarried granites from the adjacent temple lands in S.No.575 to an extent of



32,000 sq.ft of land to a depth of 40 feet, which was allegedly assessed by rover survey. Thereby irrecoverable damage has been caused to the temple. Based on the reports submitted by the 1st informant, the Assistant Commissioner HR and CE, Krishnagiri had given complaints to the Assistant Director (Mines and Minerals), Krishnagiri and the District Collector, Krishnagiri. Further, on 28.12.2021, unknown persons had trespassed into the temple lands and make markings "Waste" and had assigned numbers to the Granite blocks, which was also notified to the authorities by way of representation and a copy of the representation was also sent to the Deputy Superintendent of Police, Denkanikottai. Thereafter, the complaint was lodged before the respondent police.

3.The learned counsel appearing for the petitioner submits that the complaint has been filed against the petitioner in the capacity of the owner of M/s.God Granites, but the fact remains that the granite lease was issued by the Department of Geology only in the petitioner's individual name and not in the name of M/s.God Granites. Moreover, the petitioner resigned from the partnership firm M/s.God Granites on 01.04.2007 itself which is evident from the documents submitted to the Registrar of Firms as per 59 of the Indian Partnership Act, 1932. He further submits that the period of lease given to the petitioner in the Government Poromboke land in S.F.No.629(Part) of Nagamangalam Village, Denkanikottai Taluk, Krishnagiri District was a period of 10 years under erstwhile Rule 39 of Tamil Nadu Mines Minerals Concessions Rules 1959 from 11.05.1995 to 10.05.2005. He further submits that the brother of the petitioner Late B.Jayaram entered into an lease agreement with Trustees and the Arankavalar of the Temple for three years and for utilizing the part of temple land in Survey No.575 to an extent of 1.22 acres and in Survey No.576 to an extent of 1.22 acres, which is adjacent side (eastern side) of leased out quarry in S.F.No.629. The lease agreement was entered into to use the land for construction of labour shed and movement of men and machinery. He would state that the petitioner is no way connected with the alleged offence and ready to co-operate with the investigation.

4. The learned Additional Public Prosecutor submits that investigation is almost completed and the quarry is under the name and style of the God Granite and this firm is the petitioner's partnership firm

5. Considering the facts and circumstances of the case and also the submissions made by both counsel and that the investigation is almost completed and that the petitioner has retired from the partnership firm, this Court is inclined to grant anticipatory bail to the petitioner.

6. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the



Court's normal functioning whichever is earlier, before the learned Principal District and Sessions Judge, Krishnagiri, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall deposit a sum of Rs.2,00,000/- in to the credit of crime No.8 of 2022, before the concerned Court, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier;

(c) the petitioner shall report before the respondent police every Monday and Saturday at 10.30 a.m., for a period of four weeks and thereafter as and when required for an interrogation;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond 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 petitioner in accordance with law as if the conditions has 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]***; and;



(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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-sd/-
01/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, KRISHNAGIRI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
UDDANAPPALI POLICE STATION,
KRISHNAGIRI DISTRICT.

CC to M/S.P.RAJKUMAR Advocate on payment of necessary charges

CRL OP.1791/2022

Date :01/02/2022

TA-11/02/2022