



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighteenth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.11473 of 2022

1 SIVAKANDAN
2 GANAPATHY

[PETITIONERS/ ACCUSED]

Vs

THE STATE BY
THE SUB INSPECTOR OF POLICE,
VEERANAM POLICE STATION,
SALEM DISTRICT.
(CRIME NO.160 OF 2022)

[RESPONDENT]

For Petitioner : M/S.B.VASUDEVAN Advocate

For Respondent : MR.R.KISHORE KUMAR, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable u/s 379 of I.P.C. and Sec.21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Cr.No.160 of 2022, on the file of the respondent police, seek anticipatory bail.

2.It is the case of the prosecution that the petitioners are alleged to have transported 3 units of gravel sand illegally.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and the 1st petitioner is driver of the vehicle and 2nd petitioner is owner of vehicle. Hence, he prays to grant anticipatory bail to the petitioners.



4. The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is 3 units of gravel sand. He further submitted that there is no previous case pending against the petitioners. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.45,000/- (Rupees forty five thousand only) jointly as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are directed to deposit a sum of Rs.45,000/- (Rupees forty five thousand only) jointly as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and on such deposit the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.IV, Salem on condition that the petitioners 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 petitioners and 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 petitioners shall deposit a sum of Rs.45,000/- (Rupees forty five thousand only) jointly as non refundable deposit to the credit of the concerned District Mineral Foundation Trust.

[c] the petitioners shall report before the respondent police daily at 10.30 for a period of two weeks and thereafter as and when required for interrogation.



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

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
18/05/2022

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 JUDICIAL MAGISTRATE,
NO.IV, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT [FOR INFORMATION]

3 THE SUB INSPECTOR OF POLICE
VEERANAM POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



5 THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
SALEM DISTRICT.

WEB COPY +1CC to M/S.B.VASUDEVAN Advocate on payment of necessary
charges SR.NO.7483

CRL OP.11473/2022

Date :18/05/2022

CSK 19/05/2022