



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Sixth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL ORIGINAL PETITION Nos.12417 & 12443 of 2022

1 GOPINATHAN

[PETITIONERS / ACCUSED

2 VINITH @ VINITHKUMAR

IN CRL.O.P.No.12417/2022]

ANUMANTHAN

[PETITIONERS / ACCUSED

IN CRL.O.P.No.12443/2022]

Vs

THE SUB INSPECTOR OF POLICE
VELLAVEDU POLICE STATION,
THIRUVALLUR DISTRICT.
(CRIME NO.185 OF 2021)

[RESPONDENT

IN BOTH THE PETITIONS]

For Petitioner : M/S.A.TAMILSELVAN Advocate
[IN BOTH THE PETITIONS]

For Respondent : M/S.V.MEGANATHAN, Govt. Advocate (Crl. Side)
[IN BOTH THE PETITIONS]

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

ORDER : The Court Made the following order :-

The petitioners/(A1, A5 and A6), who apprehend arrest at the hands of the respondent police for the alleged offences punishable u/s 430, 379 r/w 36(A) of Mines and Minerals (Development and Regulation) Act in Cr.No.185 of 2021, 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 sand illegally in a Lorry and JCB.

3. The learned counsel appearing for the petitioners would submit that the petitioners are an innocent person and they have been falsely implicated in this case. Hence, he prays to grant anticipatory bail to these petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that there are four previous cases pending against A1 and 11 previous cases against A5 and 7 previous cases against A6. The learned Additional Public Prosecutor further submitted that A1 is the owner of the JCB, A5 is the owner of the lorry and A6 is the cleaner of the lorry. However, he vehemently opposed to grant anticipatory bail to the petitioner.

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 1st Accused is directed to deposit Rs.50,000/- (Rupees Fifty thousand only), 5th accused is directed to deposit 30,000/- (Rupees Thirty thousand only) and 6th accused is directed to deposit Rs.10,000/- (Rupees ten thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioners had deposited the said amount, it would not amount to admission of his 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, 1st Accused is directed to deposit Rs.50,000/- (Rupees Fifty thousand only), 5th accused is directed to deposit 30,000/- (Rupees Thirty thousand only) and 6th accused is directed to deposit Rs.10,000/- (Rupees ten thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and on such deposit the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, No.II, Poonamallee on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- each (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] 1st Accused is directed to deposit Rs.50,000/- (Rupees Fifty thousand only), 5th accused is directed to deposit 30,000/- (Rupees Thirty thousand only) and 6th accused is directed to deposit Rs.10,000/- (Rupees ten thousand only) 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 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].

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

-sd/-

26/05/2022

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.II, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]



3 THE SUB INSPECTOR OF POLICE
VELLAVEDU POLICE STATION,
THIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+2 CC to M/S.A.TAMILSELVAN Advocate on payment of necessary
charges SR.NOs. 8097 & 8101

CRL OP.Nos.12417 & 12443/2022

Date :26/05/2022

RW-02/06/2022