



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice B.PUGALENDHI

CRIMINAL ORIGINAL PETITION No.13058 of 2022

KUTHAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
VEERANAM POLICE STATION,
SALEM CITY, SALEM DISTRICT.
IN CRIME NO.160 OF 2022.

[RESPONDENT]

For Petitioner : M/S.S.MAYILNATHAN Advocate

For Respondent : MR.N.MUTHUVEL, Govt. Advocate (Cr1. Side)

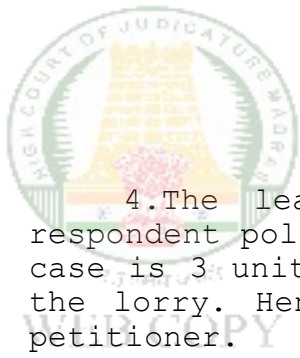
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 379 Indian Penal Code, 1860 r/w. 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.160 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner along with other accused illegally transported 3 units of sand in a lorry bearing Reg.No.TN69AD0508. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. However, to show his bona fide, he is prepared to pay a substantial amount to any public organization as directed by this Court and has also made an endorsement to that effect.



4. The learned Additional Public Prosecutor appearing for the respondent police submitted that the quantity of sand involved in this case is 3 units of ordinary soil and the petitioner is the driver of the lorry. Hence, he opposed for grant of anticipatory bail to the petitioner.

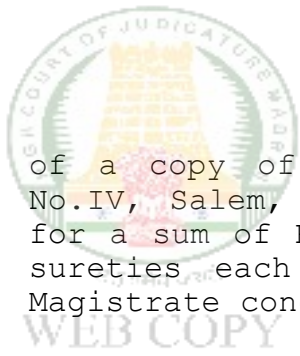
5. It is needless to say that any tool or instrument or vehicle used for illegal quarrying/ transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals (Development & Regulation) Act and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation) Act.

6. 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.

7. Considering the nature of mineral involved, the antecedent of the petitioner and his willingness to pay a reasonable amount to any public organization, this Court is inclined to grant anticipatory bail to the petitioner.

8. Accordingly, this Criminal Original Petition is allowed on condition that the petitioner shall pay a sum of Rs.22,500/- (Rupees Twenty Two Thousand Five Hundred only) to the credit of Research and Development Wing (Siddha), Indian Medicine and Homeopathy Department, Arumbakkam, Chennai - 600 106, in Canara Bank, Anna Nagar East Branch, Chennai, (Account No.0974101556378, IFSC Code: CNRB0000974), without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Magistrate. The amount paid by the petitioner shall be utilized by the said Department for research activities in Siddha Medicine.

9. On production of such receipt/acknowledgement, 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 of receipt



of a copy of this order, before the learned Judicial Magistrate, No.IV, Salem, on condition that the petitioner shall execute 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 Magistrate concerned and on further conditions that:

[a]the petitioner and 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 petitioner shall report before the respondent police as and when required for interrogation.

[c]the petitioner 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 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 229-A IPC.

-sd/-
01/06/2022

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 [FOR INFORMATION]



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

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE RESEARCH AND DEVELOPMENT
WING (SIDDHA), INDIAN MEDICINE AND
HOMEOPATHY DEPARTMENT, ARUMBAKKAM,
CHENNAI - 600 106, IN CANARA BANK,
ANNA NAGAR EAST BRANCH, CHENNAI,
(ACCOUNT NO.0974101556378,
IFSC CODE: CNRB0000974)

+1 CC to M/S.S.MAYILNATHAN Advocate on payment of necessary
charges SR.NO.8460

CRL OP.13058/2022

Date :01/06/2022

JPA 03/06/2022