



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Monday, the Twenty Seventh day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN
CRIMINAL ORIGINAL PETITION No.13555 of 2022

M.SWAMINATHAN

[PETITIONER / ACCUSED]

Vs

STATE REP BY
INSPECTOR OF POLICE,
LATHERI POLICE STATION,
VELLORE DISTRICT
(CRIME NO.161/2021)

[RESPONDENT]

For Petitioner : M/S M.SATHISH KUMAR Advocate

For Respondent : MR. V.J.PRIYADARSANA, Govt. Advocate(Crl. Side)

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

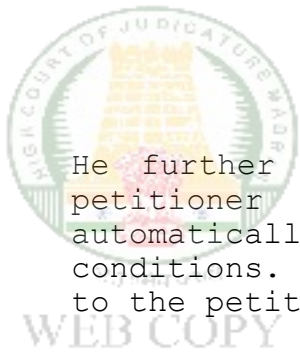
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 430 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act 1957 in Cr.No.161 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner is alleged to have transported 1/4 unit of river sand illegally.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submits that the petitioner has already been granted anticipatory bail by this Court in Crl.O.P.No.20764 of 2021 dated 02.11.2021. However, the petitioner being a daily wager could not able to mobilize the condition amount within the stipulated time and the anticipatory bail granted was automatically cancelled. Therefore, he prays to grant anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) appearing for the respondent submitted that the quantity of river sand involved is 1/4 unit and there is no previous case pending against the petitioner.



He further submitted that, the anticipatory bail granted to this petitioner in CrI.O.P.No.20764 of 2021 dated 02.11.2021 was automatically cancelled as the petitioner had failed to comply the conditions. Hence, 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 petitioner is directed to deposit a sum of 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 petitioner has 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 petitioner with certain conditions.

8. Accordingly, the petitioner is directed to deposit a sum of 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, Katpadi 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 Magistrate 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.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust.

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

27/06/2022

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, KATPADI

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 INSPECTOR OF POLICE,
LATHERI POLICE STATION, VELLORE DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE DISTRICT MINERAL
FOUNDATION TRUST, VELLORE

CC to M/S M.SATHISH KUMAR Advocate on payment of necessary charges Sr.10074

CRL OP.13555/2022

Date :27/06/2022

RVR 29/06/2022