



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/05/2022

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PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD). No.9078 of 2022

Selvabharathi

... Petitioner/Accused Sole

Vs

The State rep.by,
The Inspector of Police,
Nadukaveri Police Station,
Thanjavur District.
(Crime No.165 of 2022)

... Respondent/Complainant

For Petitioner : Mr.R.L.Dhilipan Pandian,
Advocate.

For Respondent : Mr.R.Sureshkumar,
Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Crime No.165 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is apprehending arrest at the hands of the respondent police for the offence punishable under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.165 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that $\frac{1}{4}$ unit of sand has been illegally transported by the petitioner.

3.The learned counsel for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. However, on instruction, he would further submit that the petitioner is ready to deposit any amount to the District Mineral Foundation Trust without prejudice to his rights.



4.The learned Government Advocate(Crl.Side) appearing for the State submitted that the vehicle was seized by the respondent police and there is no case pending against the petitioner. He further submitted that if the person is caught with illegal sand in the mining area, he has to be directed to deposit the conditional amount to the credit of Crime number. However, in view of formation of District Mineral Foundation Trust in each district, the amount may be deposited to the credit of the said Trust for rehabilitation in the areas affected by illegal sand mining.

5.In view of the rehabilitation undertaken by the State Government under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities and also considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner is directed to make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions. This amount so deposited shall be utilized by the Trust for rehabilitation works.

6.It is made clear that the deposit of the amount by the petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

7.Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate (Crl.side), this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, 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, Thiruvaiyaru, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled.

(ii) the petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) through demand draft to the credit of the Chairman/District Collector, District



Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

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(iii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iv) the petitioner shall report before the respondent police daily at 10.30.a.m., for a period of two weeks, thereafter, as and when required.

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

(vi) the petitioner shall not abscond either during investigation or trial;

(vii) 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]**;

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

sd/-

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12/05/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



TO

1 THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM.

3 THE INSPECTOR OF POLICE
NADUKAVERI POLICE STATION,
THANJAVUR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE CHAIRMAN / DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.

ORDER

IN

CRL OP(MD) No.9078 of 2022

Date :11/05/2022

PNM/SJI

MK/VR/SAR.II/12.05.2022/4P/6C