



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRACRL.O.P(MD)No.21936 of 2022

WEB COPY

Sunil

... Petitioner/Accused 3

-Vs-

The State represented by
The Sub Inspector of Police,
Marthandam Police Station,
Kanniyakumari District.
(in Cr.No.807 of 2020)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.807 of 2020.

For Petitioner : Mr.A.Balakrishnan, Advocate

For Respondent : Mr.M.Veeranthiran
Government Advocate (Crl.side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.807 of 2020 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioner and other accused were said to have illegally transported two units of red soil by using JCB and tempo. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that petitioner is arrayed as third accused and he had along with other accused had earlier filed an anticipatory petition before this Court in Crl.O.P.(MD)No.6373 of 2022 and this Court, by order, dated 04.03.2021 was pleased to grant anticipatory bail to the petitioners therein. However, since the two other accused passed away, the petitioner herein was unable to surrender and furnish surety and that the earlier order got lapsed.



4.The learned Government Advocate (Crl.side) would ly concede that earlier, this Court by order, dated 04.03.2021 granted anticipatory bail to petitioner and other co-accused. He would also submit that there is no previous case against 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 view that the petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five 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 into consideration the facts and circumstances of the case and on perusing the order passed by this Court in Crl.O.P.(MD) No.2673 of 2021, dated 04.03.2021, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, 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 Judicial Magistrate Court-I, Kuzhithurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[c] the petitioner shall not tamper with 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 229A IPC.

sd/-

13/12/2022

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, KUZHITHURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE SUB INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION, KANNYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
KANYAKUMARI DISTRICT.

+1. CC to M/S.BALAKRISHNAN A Advocate SR.No.14790

ORDER

IN

CRL OP(MD) No.21936 of 2022

Date :13/12/2022

cmr

SA/VR/SAR.2/22.12.2022/3P/7C