



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CRL.O.P(MD)No.340 of 2023

WEB COPY

1.P.Premkumar
2.P.Palaniyappan
3.P.Manivel

... Petitioners/Accused Nos.1 to 3

-VS-

State represented by
The Inspector of Police,
Palaviduthi Police Station,
Karur District.
(Cr.No.2 of 2023)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.2 of 2023 on the file of the respondent Police.

For Petitioners : Mr.K.Manokaran, Advocate

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

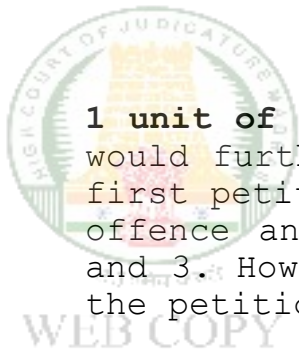
O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 379 IPC r/w Section 21(1) of Mines and Minerals (Development of Regulation) Act, 1957 and Section 183 of Motor Vehicles Act in Crime No.2 of 2023 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioners were allegedly indulging in illegal mining of **1 unit of Stream Sand (Odai Manal)** by using Tractor and tipper and on seeing the Police, the accused ran away. Hence, the complaint.

3.The learned Counsel appearing for the petitioners would submit that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. Hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (crl.side) appearing for the respondent submitted that the petitioners were indulging in theft of



1 unit of Stream sand (odai manal) by using Tractor and tillage. He would further submit that 3 previous case is pending as against the first petitioner out of which one case is registered for the similar offence and no previous case is pending against the petitioners 2 and 3. However, he vehemently opposes to grant anticipatory bail to the petitioners.

5. Heard the learned Counsel for the petitioners and the learned Government Advocate (crl.side) for the respondent and perused the materials available on record.

6. 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 directs the petitioners 2 and 3 to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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.

7. Merely, because the petitioners 2 and 3 had deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

8. Considering the bad antecedent, this petition with regard to the first petitioner is dismissed. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners 2 and 3 with certain conditions.

9. Accordingly, the petitioners 2 and 3 shall make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) each by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners 2 and 3 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate Court No.1, Kulithalai, Karur District, on condition that the petitioners 2 and 3 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 petitioners 2 and 3 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 petitioners 2 and 3 shall report before the police everyday at 10.30 a.m., until further orders.

[c] the petitioners 2 and 3 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 2 and 3 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 petitioners 2 and 3 in accordance with law as if the conditions have been imposed and the petitioners 2 and 3 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/-

12/01/2023

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/01/2023

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

CM

TO

1 THE JUDICIAL MAGISTRATE COURT NO.I, KULITHALAI, KARUR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.

3 THE INSPECTOR OF POLICE,
PALAVIDUTHI POLICE STATION,
KARUR DISTRICT.

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

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

+1. CC to M/S.MANOCHARAN.K Advocate SR.No.797

ORDER IN

CRL OP(MD) No.340 of 2023

Date :12/01/2023

SA/VR/SAR.4/01.02.2023/3P/7C