



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.353 of 2023

WEB COPY

- 1.B.Selvakumar
- 2.K.Kanagaraj
- 3.N.Muthumuniyandi
- 4.G.Palanichamy
- 5.V.Nagaraj

...Petitioners/Accused No.1 to 5

-vs-

State represented by
The Inspector of Police,
V.Chathirapatti Police Station,
Madurai District.
(Cr.No.1 of 2023)

...Respondent/Complainant

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

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.1 of 2023 on the file of the respondent Police.

For Petitioners : Mr.P.Banu Prasath,
Advocate.

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

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Section 379 IPC and Sections 4(1)(1-A), 21(5) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.1 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, at the time of patrol, it is found that the accused was digging **the savudu soil** by JCB and loaded to a Tractor and Trailer 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. He would submit that the petitioners have taken sand from the patta land belonging to one Ramaraj for filling the temple land for the festival. He would also submit that the petitioners are ready to deposit Rs.5,000/- each to the Mines and Minerals Department without prejudice to their rights and contentions. 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 have attempted to remove **savudu sand** from the patta land belonging to one Ramaraj. He would further submit that 1 previous case is pending as against the first petitioner but not for similar offence and no previous case is pending against the other petitioners. 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 is of the opinion that the petitioners may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each 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 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. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, the petitioners shall make a non refundable deposit of Rs.5,000/- (Rupees Five 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 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 District Munsif cum Judicial Magistrate, Peraiyur, Madurai District, 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 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 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 shall report before the respondent police everyday at 10.30 a.m., for a period of four weeks and thereafter every Saturday at 10.30 am., until further orders "

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

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

(*) For being Mentioned as per order of this Hon'ble Court dated 31.01.2023 in CRL OP(MD)No.353 of 2023.

Further two weeks time is extended to comply with the conditions imposed by this court.

/ TRUE COPY /

/02/2023

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

CM



TO

To be substituted with the order dated 12.01.2023 already despatched

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
PERAIYUR,
MADURAI DISTRICT.

2 -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
V.CHATHRAPATTI POLICE STATION,
MADURAI DISTRICT.

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

COPY TO:

THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
MADURAI.

+1. CC to M/S.BANU PRASATH.P Advocate SR.No.697(I)

ORDER

IN

CRL OP(MD) No.353 of 2023

Date :12/01/2023

VA/SSS/SAR-4/25.01.2023/4P/7C

AAV

PKP/ /SAR-2/03.02.2023/4P/7C