



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/01/2023

WEB COPY

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.665 of 2023

1.Ashok Kumar

2.Kumar

... Petitioners/Accused No. 1 and 2

Vs.

State, represented by
The Inspector of Police,
Sengipatti Police Station,
Thanjavur District
(Crime No.12 of 2023)

... Respondent/Complainant

For Petitioners : Mr.M.Rajarajan
For Respondent : M.Veeranthiran,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Cr.No. 12 of 2013 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/accused who apprehend arrest at the hands of the respondent police for the offences punishable under Section 379 of I.P.C and Section 21(1) of Mines and Minerals (Development and regulation) Act, 1957, in Crime No. 12 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 respondent police found that the petitioners were allegedly indulging in illegal gravel mining with the use of Tipper Lorry and on 05.01.2023, the vehicle owned by the second petitioner was seized with 3 unit of gravel sand. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and a false case has been



ready to abide by any condition imposed by this Court. He is granted of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioners have transported 3 units of gravel sand in a Tipper Lorry and he prays for dismissal of this application. However, he would concede that no previous case is pending against the petitioners.

5. Heard. Perused the materials available on record including the First Information Report.

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 to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions before the trial Court.

7. Merely, because the petitioners have 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 of the facts and circumstances of the case and also the fact that the petitioners have no bad antecedent, 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.15,000/- (Rupees Fifteen Thousand only) each 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 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 Judicial Magistrate Court No.3, Thanjavur, 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 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 Station every Monday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 a.m until further orders;

[c] the petitioners shall not tamper with the 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]**; and;

[f] if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
11/01/2023

/ TRUE COPY /

/01/2023

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

CM

TO

1. The Judicial Magistrate No.3, Thanjavur.
2. Do Through The Chief Judicial Magistrate, Thanjavur District at Kumbakonam.
- 3.The Inspector of Police,
Sengipatti Police Station,
Thanjavur District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



CRL OP(MD)



23

Copy to
the Officer Incharge,
District Mineral Foundation Trust, Thanjavur District.

WEB COPY

ORDER
IN
CRL OP(MD) No.665 of 2023
Date : 11/01/2023

TR/VR/SAR-III(23.01.2023) 4P 6C