



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.677 of 2023

1.Mariappan
2.Karuppasamy
3.Karthick @ Kakkamandaiyan @ Periyasamy
4.Thavasi
5.Krishnan @ Krishnasamy

... Petitioners/Accused 1,3 to 6

Vs.

State represented by
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District
(Crime No.4 of 2023)

... Respondent/Complainant

For Petitioner : Mr.C.Vakeeswaran
For Respondent : M.Veeranthiran,
Government Advocate (Crl.Side)

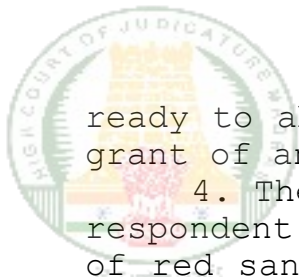
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

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. 4 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 second accused, who is the driver of the vehicle, has illegally transported 1 unit of red sand worth Rs.1500/- in a Tractor and Trailer bearing Registration No. TN-67-AQ-6604 and TN-50-T-5607 and the first petitioner is the owner of the vehicle and the second accused has stated in his confession statement that the petitioners 2 to 5 have loaded the sand in the Tractor. 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 not entitled to grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioners have transported 1 unit of red sand in a Tractor and Trailer and he prays for dismissal of this application. However, he would concede that no previous case is pending against the petitioners 2 to 5 and the first petitioner is having 2 previous cases.

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

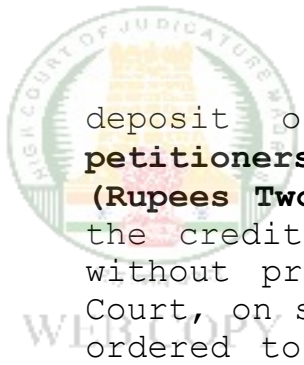
6. This Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier applications. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the role assigned to the person would have to be considered on case to case basis.

7. 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 1st petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) and the petitioners 2 to 5 may be directed to deposit a sum of Rs.2,000/- (Rupees Two Thousand only) each and to the credit of the The Dean, Government Rajaji Hospital, Madurai without prejudice to his rights and contentions before the trial Court.

8. 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.

9. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

Accordingly, the 1st petitioner shall make a non refundable



deposit of Rs.5,000/- (Rupees Five Thousand only) the petitioners 2 to 5 shall make a non refundable deposit of Rs.2,000/- (Rupees Two Thousand only) each by way of Demand Draft/RTGS/NEFT to the credit of the The Dean, Government Rajaji Hospital, Madurai, without prejudice to his rights and contentions before the trial Court, on such deposit and on 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 **learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar 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 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.II,
SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT.

2 -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
SRIVILIPUTHUR @ VIRUDHUNAGAR DISTRICT.

3 THE INSPECTOR OF POLICE
SRIVILLIPUTHUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

COPY TO
THE DEAN,
GOVERNMENT RAJAJI HOSPITAL,
MADURAI.

+1. CC to M/S.VAKEESWARAN C Advocate SR.No. 599(I)

ORDER
IN
CRL OP(MD) No.677 of 2023
Date :11/01/2023

VA/VR/SAR-3/24.01.2023/4P/7C