



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.862 of 2023

1.Vignesh

(Wrongly shown as Vicknesh)

2.Raja

...Petitioners/Accused nos 1 and 2

-vs-

The State represented by
The Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari 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.V.Sukumar, Advocate

For Respondent

: Mr.P.Kottai Chamy

Government Advocate (Crl.side)

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

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Section 379 of IPC 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 have found to be committed theft of two units of red sand by using Swaraj Mazd vehicle. Hence, the complaint.

3.The learned Counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He would also submit the petitioners have not committed any offence as alleged by the prosecution and they are ready to abide by any stringent conditions. Hence, he would seek for anticipatory bail to the petitioners.

4.The learned Government Advocate (crl.side) would submit that the petitioners have found to be committed theft of two units of red sand by using Swaraj Mazd vehicle. He would oppose for grant



anticipatory bail to the petitioners.

5. Heard the learned Counsel. Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

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 inclined to direct the petitioners 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 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 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.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 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 learned Judicial Magistrate No.II, Nagercoil, 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 everyday at 10.30 a.m., 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

/ TRUE COPY /

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

CMR

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
NAGECOIL.
- 2 -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
NAGERCOIL @ KANYAKUMARI DISTRICT.
- 3 THE INSPECTOR OF POLICE
NESAMONY NAGAR POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE OFFICER INCHARGE,
DISTRICT MINER FOUNDATION TRUST,
NAGERCOIL @ KANYAKUMARI

+1. CC to M/S.SUKUMAR V Advocate SR.No.677(I)

ORDER

IN

CRL OP(MD) No.862 of 2023

Date :12/01/2023

VA/MMS/SAR-2/27.05.2023/3P/7C