



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**CRL.O.P(MD)No.1500 of 2023

WEB COPY

Esakkimuthu

...Petitioner / Accused Rank Not Known

-vs-

The State represented by
The Inspector of Police,
Serakulam Police Station,
Thoothukudi District.
(in Cr.No.64 of 2022)

...Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.64 of 2022.

For Petitioner	:	Ms.C.Geetha, Advocate.
For Respondent	:	Mr.A.Albert James Government Advocate (Crl.side)

ORDER

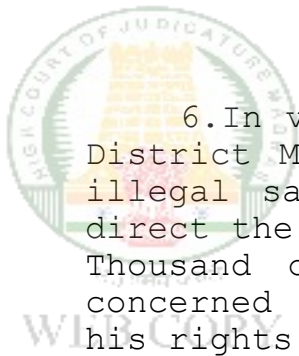
The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 379 IPC and Section 21(4) of TNMMDR Act in Crime No.64 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the petitioner was found to be illegal transportation of six units of red sand in Taras Lorry. Hence, the complaint.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence, as alleged by the prosecution. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner has indulged in illegal transportation of six units of red sand by using Taurus lorry. He would further submit that no previous case is pending against the petitioner.

5.Heard the learned Counsel for the petitioner 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 District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court direct is inclined to direct the petitioner to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) 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 petitioner has deposited the said amount, it would not amount to admission of his 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 petitioner with certain conditions.

9. Accordingly, the petitioner shall make a non refundable deposit of Rs.30,000/- (Rupees Thirty Thousand only) 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 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.1, Srivaikundam, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner 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 petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

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

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme



[f] If the accused thereafter absconds, a fresh FII registered under Section 229A IPC.

sd/-
25/01/2023

/ TRUE COPY /

WEB COPY

/02/2023

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I
SRIVAIKUNDAM.
- 2 THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE
SERAKULAM POLICE STATION,
THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:
THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST, THOOTHUKUDI.

+1. CC to M/S.GEETHA C Advocate SR.No.1204.

ORDER
IN
CRL OP(MD) No.1500 of 2023
Date :25/01/2023

cmr
MK/SAR-II(04.02.2023) 3P 7C