



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**CRL.O.P(MD)No.1819 of 2023

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1.Siva @ Siva Narayanan
2.Mayandi

...Petitioners/ Accused No.7 & 10

-vs-

The State represented by
The Sub Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.
(Cr.No.114 of 2021)

...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.114 of 2021 on the file of the respondent Police.

For Petitioners : Mr.B.Deepak

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

ORDER

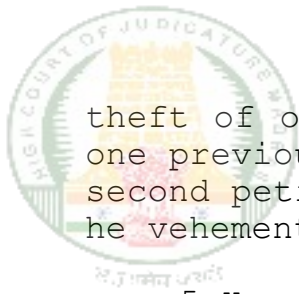
The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Section 379 of IPC r/w 21(1) of TNMMDR Act in Crime No.114 of 2021 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that the accused persons have indulged in illegal transportation of Odai sand and on seeing the police, some of the accused have ran away from the scene of occurrence. 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 further submit that the petitioners were implicated in this case based on the confession of the arrested accused. Hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (crl.side) appearing for the respondent would submit that that the petitioners have indulged in

<https://www.mhfc.tn.gov.in/judis>



theft of odai sand by using a lorry. He would further suk at one previous case is pending as against the first petitioner and the second petitioner has no previous case pending against him. 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 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 as non refundable deposit 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 Judicial Magistrate No.1, Thoothukudi, 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 first petitioner shall report before the respondent police everyday at 10.30 a.m., and 05.30 pm and the second petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.



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

[d] the petitioners shall not abscond either during investigation or trial.

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[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/-

31/01/2023

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/02/2023

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

cmr

To

- 1.The Judicial Magistrate No.1, Thoothukudi.
2. -do-Through The Chief Judicial Magistrate, Thoothukudi.
- 3.The Sub Inspector of Police,
Sawyerpuram Police Station, Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

Copy to:

**The Officer In-Charge,
District Mineral Foundation Trust, Thoothukudi.**

+1 CC to M/s.B.DEEPAK, Advocate (SR-1486[I] dated 31/01/2023)

ORDER

IN

CRL OP(MD) No.1819 of 2023

Date :31/01/2023

RD(03/02/2023) 3P 7C