



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P(MD)No.2829 of 2023

WEB COPY

1.Annadurai
2.Ramesh

...Petitioners/Accused Nos.1 & 2

-vs-

State represented by
The Inspector of Police,
Thiruchitrambalam Police Station,
Thanjavur District.
(in Cr.No.49 of 2022)

...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 by the respondent Police with respect to Cr.No. 49 of 2022.

For Petitioners : Mr.D.R.Murugesan, Advocate

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

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 r/w Section 21(1) of Mines and Minerals (Development and regulation) Act, 1957, in Crime No. 49 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 illegally transported $\frac{1}{4}$ unit of **river sand** each in their bullock carts. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and a false case has been foisted against them. He would further submit that petitioners are ready to abide by any condition imposed by this Court. He prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioners were illegally transported $\frac{1}{4}$ unit of of river sand in their Bullock Carts and he prays for dismissal of this application. However, he would concede



that no previous case is pending against the first petitioner and one previous case is pending against the second petitioner.

5. Heard. Perused the materials available on record.

6. Considering the bad antecedent of the second petitioner, this petition is dismissed as against the second petitioner.

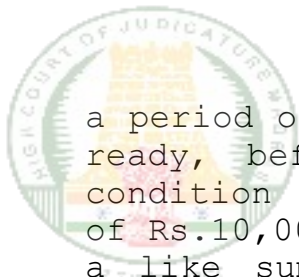
7. This Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences 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.

8. 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 first petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust without prejudice to his rights and contentions before the trial Court.

9. Merely, because the first petitioner had 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.

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

11. Accordingly, the first petitioner shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court. On such deposit and on production of proof, the first 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 () is ready, before the **learned Judicial Magistrate, Peravurani**, on condition that the first 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 first 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 first petitioner 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 first petitioner shall not tamper with the evidence or witness either during investigation or trial;

[d] the first 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 first petitioner in accordance with law, as if the conditions have been imposed and the first petitioner 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/-
13/02/2023

/ TRUE COPY /

/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CM

TO

1 THE JUDICIAL MAGISTRATE, PERAVURANI

2 -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT.



3 The Inspector of Police,
Thiruchitrambalam Police Station,
Thanjavur District.
THANJAVUR DISTRICT.

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

COPY TO:

THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.

ORDER
IN
CRL OP(MD) No.2829 of 2023
Date :13/02/2023

VA/SBN/SAR-1/20.02.2023/4P/6C