



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.02.2023

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

CRL.O.P(MD)No.2860 of 2023

Udhayakumar

...Petitioner/Accused No.1

-vs-

The State represented by
The Inspector of Police,
Dhalavaipuram Police Station,
Virudhunagar District.
(in Cr.No.24 of 2023)

...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.24 of 2023.

For Petitioner	: Mr.K.P.Sankarakumarakuruparan
For Respondent	: Mr.K.Sanjai Gandhi Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends 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.24 of 2023 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 has illegally transported two units of rough stones without proper permission in a lorry. Hence, the case.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is an 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 two units of rough stone by using a lorry. He would further submit that no previous case is pending against the petitioner.



5. Heard the learned Counsel for the petitioner and the 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 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, Rajapalayam, 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 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/-

14/02/2023

/ TRUE COPY /

/02/2023

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

TO

- 1 THE JUDICIAL MAGISTRATE,
RAJAPALAYAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE
DHALAVAIPURAM POLICE STATION, VIRUDHUNAGAR DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE DISTRICT MINERAL FOUNDATION TRUST,
VIRUDHUNAGAR DISTRICT.

+1 CC to M/s.K.P.SANKARAKUMARAKURUPARAN, Advocate (SR-2371[I] dated 15/02/2023)

ORDER

IN

CRL OP(MD) No.2860 of 2023

Date :14/02/2023

SS/VS/SAR I (21.02.2023) 3P 7C