



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2023

PRESENT

WEB COPY

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

CRL.O.P (MD) No.23084 of 2022

Mani

...Petitioner/Sole Accused

-vs-

State rep.by
The Inspector of Police,
Vangal Police Station,
Karur District.
(in Crime No.532 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.532 of 2022.

For Petitioner : Mr.R.Mathiyalagan, Advocate

For Respondent : Mr.M.Veeranthiran
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.532 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 had illegally transported 1/4 unit of river sand in bullock cart without any valid permission. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that he had purchased 1/4 unit of river sand from a dealer for personal use and at the time of interception, he was unable to produce the bill. He would submit that without prejudice to his defence, the petitioner is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) appearing for the respondent submitted that the petitioner had illegally transported 1/4 unit of river sand in bullock cart without any valid permission and the petitioner has one previous case registered against him.



Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. 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.

6. It is the case of the petitioner that the quantity is minimum intended for his personal use. However in order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

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

8. Accordingly, the 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 **District Mineral Foundation Trust concerned**, without prejudice to their 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.II, Karur, 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 responding 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/-

02/01/2023

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/01/2023

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

cmr

TO

1. THE JUDICIAL MAGISTRATE NO.II, KARUR.
2. -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
3. THE INSPECTOR OF POLICE,
VANGAL POLICE STATION,
KARUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

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

+1. CC to M/S. MATHIYALAGAN.R Advocate SR.No.9

ORDER

IN

CRL OP(MD) No.23084 of 2022

Date :02/01/2023