



CRL OP(MD). No.5346 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05.04.2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

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1.Siva

2.Dharmaraj

... Petitioners/ Accused Rank Nos.2 & 3

Vs

The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
Cr.No.176 of 2024.

... Respondent/Complainant

For Petitioners : Mr.R.L.Dhilipan Pandian, Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.176 of 2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police in connection with Crime No.176 of 2024 for the offence under Sections 379 IPC r/w. 21

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



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(1) of Mines and Minerals (Development and Regulation) Act, 1957, have filed this petition.

2.The case of the prosecution is that the petitioners and other accused have illegally transported 3 units of sand.

3.The learned counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case.

4.The learned Additional Public Prosecutor appearing for the respondent police opposes for grant of anticipatory bail on the ground that the the investigation is yet to be completed. He fairly conceded that the petitioners are not having any bad antecedent.

5.Considering the nature of mineral involved and the antecedent of the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, this Criminal Original Petition is allowed and 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 of receipt of a copy of this order, before the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five

Thousand only) each with two sureties each for a like sum to the satisfaction of the

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learned Magistrate concerned and on further conditions that:

- i) The petitioners and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address;
- ii) The petitioners shall appear before the respondent police as and when required for interrogation. They have to co-operate for the investigation.
- iii) The petitioners shall not misuse the liberty granted to them by indulging in any further offence and shall not tamper with the prosecution witnesses. They shall be available for the trial as well.
- iv) On violation of any of the above conditions by the petitioners, the respondent police shall move an application for cancellation of the bail.

7.It is needless to say that any tool or instrument or vehicle used for illegal quarrying/ transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals (Development & Regulation) Act and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation) Act.

8.Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities have not invoked the provision of 21 (4-A) of



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the Mines and Minerals (Development & Regulation) Act 1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasised the need for confiscation of the vehicles. Consequently, the Government has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries MMC-2 Department, dated 05.08.2020 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals (Development & Regulation) Act and as per the guide lines issued in G.O.Ms.No.170, Industries MMC-2 Department, dated 05.08.2020.

sd/-
05/04/2024

/ TRUE COPY /

/04/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI
TO

- 1 THE JUDICIAL MAGISTRATE,
THIRUVAIYARU, THANJAVUR DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT @ KUMBAKONAM.



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3 THE INSPECTOR OF POLICE
THIRUVAIYARU POLICE STATION,
THANJAVUR DISTRICT.

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

+1 CC to M/s.R.L.DHILIPAN PANDIAN, Advocate (SR-4267[I] dated 08/04/2024)

ORDER
IN

CRL OP(MD) No.5346 of 2024
Date :05/04/2024

PKP/VR/SAR /12.04.2024/ 5P/ 6C

Madurai Bench of Madras High Court is issuing certified
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