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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/03/2020

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD). No.5170 of 2020

Sudhakar ... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
Papanasam Police Station,
Thanjavur District.
(Crime No.47 of 2020) ... Respondent/Complainant

For Petitioner : M/s.U.Umamaheswaran,
Advocate.
For Respondent : Mr.S.Chandrasekar,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-
For Bail in Crime No.47 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

This petition has been filed by the petitioner/ accused seeking bail for the alleged offence punishable under Sections 379 of IPC r/w. 21(4) Mines and Minerals (Development and Regulation) Act, 1957

2. The case of the prosecution is that the petitioner was illicitly transporting ¼ unit of river sand when he was apprehended along with his bullock cart.

3. The petitioner was in incarceration from 24.02.2020. Being the first time offender he seeks bail since he is in jail for the past 30 days. This is the second bail petition.

4. The learned Additional Public Prosecutor appearing for the State would submit that the petitioner was caught red handed while transporting river sand illegally. Bullock cart was also seized along with the sand. Since illicit sand mining has become rampant in

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Thanjavur District, taking note of the factual circumstances the learned Magistrate had dismissed the petition. There is no change in the facts and circumstances of the case to entertain the petition.

5. Taking note of the fact and the submission made by the learned Additional Public Prosecutor and taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner by imposing conditions.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Papanasam, Thanjavur District;

(a)the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty 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.

(b)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(c)the petitioner shall report before the respondent police as and when required for interrogation.

(d)the petitioner shall not abscond either during investigation or trial.

(e)the petitioner shall not tamper with evidence or witness either during investigation or trial.

(f)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].

(g)If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
24/03/2020

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

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TO
1. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
   PAPANASAM, THANJAVUR DISTRICT.

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

3. THE OFFICER INCHARGE, SUB PRISON, PAPANASAM,
   THANJAVUR DISTRICT.

4. THE INSPECTOR OF POLICE,
   PAPANASAM POLICE STATION, THANJAVUR DISTRICT.

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

COPY TO:
THE OFFICER INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.

+1 CC to M/s.U.UMAMAHESHWARAN, Advocate (SR-5700[I] dated 24/03/2020)

ORDER
IN
CRL OP(MD) No.5170 of 2020
Date :24/03/2020

MS/VR/SAR-3/24.03.2020/3P.8C

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