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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 19/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.2683 of 2021

Prakash

... Petitioner/Accused No.1

Vs

State rep.by
The Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
Crime No.33/2021.

... Respondent/Complainant

For Petitioner : Mr.A.Thiruvadi Kumar,
Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :- For Bail in Crime no. 33 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1 herein who were arrested and remanded to judicial custody on 08.02.2021 for the alleged offence under Sections 379 of IPC r/w.Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with other accused have committed a theft of three units of sand using lorry without permission from the authorities. Hence the complaint

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in the above case. He would also submit that the sand has been seized by the respondent police and A2 in this case was released on bail by the Court below.



4.The learned Government Advocate(Crl.Side) appearing for the State would submit that the sand has been seized by the police. He would also submit that no previous case is pending against the petitioner.

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5.Taking into consideration the facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that the sand was seized by the respondent police and also the fact that co-accused in this case was granted bail by the lower Court, this Court is inclined to grant bail to the petitioner by imposing conditions.

6.Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

[a] the petitioner shall deposit a sum of Rs.50,000/-(Rupees Fifty thousand only) to the account of Mr.D.Karthikeyan(Canara bank Account No.1012101043080, Tallakulam Branch,IFSC Code No.CNRB0001012) without prejudice to his rights and contentions before the trial Court. The petitioner shall produce the proof of remittance /submission of amount to the Magistrate while executing sureties.

[b] On acknowledgment of the same, 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 learned Judicial Magistrate No.II, Thanjavur.

[c] 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;

[d] the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

[e]the petitioner shall not abscond either during investigation or trial.

[f]the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g]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].



[h]If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
19/02/2021

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.II, THANJAVUR.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE OFFICER INCHARGE, SUB JAIL, THANJAVUR.
4. THE INSPECTOR OF POLICE,
KALLAPERAMBUR POLICE STATION, THANJAVUR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.2683 of 2021
Date :19/02/2021

AAV
MS/PN/SAR-1/19.02.2021/3P.6C