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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 09/04/2021
PRESENT
The Hon'ble Mr.Justice G.CHANDRASEKHARAN
CRL OP(MD). No.5114 of 2021

Balamurugan @ Bala ... Petitioner/Accused No.1

Vs

The State rep.by,
The Inspector of Police,
Ammapettai Police Station,
Thanjavur District
Crime No.172/2021. ... Respondent/Complainant

For Petitioner : M/s.Sivaraja..G.,
Advocate.
For Respondent : M.Ganesan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime no. 172 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2.The petitioner/accused No.1, who was arrested on 21.03.2021 for the offences under Sections 379 of IPC and Section 21(4) of Mines and Minerals (Development and Regulations) Act, in Cr.No.172 of 2021 on the file of the respondent police, seek bail.

3.The case of prosecution is that on 21.03.2021 at about 7.00 P.M, when the police party conducted surprise visit near Kovilur Kadai Theru, the Ashok Leyland Lorry without valid permission was taking 3 unit of river sand. Hence, the case.

4. It is seen from the submissions that the allegation against the petitioner is that on 21.03.2021 at 7.00 p.m., when the police party conducted surprise visit near Kovilur Kadai Theru, the petitioner was found driving Ashok Leyland Lorry with three unit of river sand without permission. Therefore, he was arrested and remanded to judicial custody from 21.03.2021.

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5.The learned Government Advocate (Crl. Side), submits that there is no previous case against the petitioner. However, he opposes the grant of bail to the petitioner.

6. 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 and lorry was seized and also the fact that no previous case is pending against the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Judicial Magistrate, Papanasam, Thanjavur District and on further condition that:

[a] 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 daily at 10.30 am., until further orders.

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

[d] the petitioner shall not tamper with evidence or witness 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/-
09/04/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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.

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TO

1 THE JUDICIAL MAGISTRATE,
PAPANASAM.

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

3 THE INSPECTOR OF POLICE
AMMAPETTAI POLICE STATION, THANJAVUR DISTRICT

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUKKOTTAI.

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

+1. CC to MR.G.SIVARAJA, Advocate SR.No.3039

ORDER
IN
CRL OP(MD) No.5114 of 2021
Date :09/04/2021

NR/PN/SAR-III(09.04.2021) 3P:7C

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