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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 10/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.10985 of 2021

Hentrin Povulraj ... Petitioner/Accused No.1

Vs

The State Rep. by its
The Inspector of Police,
Thiruvadanai Police Station,
Ramnad District. ... Respondent/Complainant

For Petitioner : M/s.Uthayakumar A,
Advocate.
For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No. 182/2021 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 29.07.2021 for the offences punishable under Sections 379 of IPC r/w. 21(5) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.182 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found illegally loading one unit of river sand into a Mini Tipper Lorry.

3. The learned counsel for the petitioner submits that the petitioner is an innocent and he has been falsely implicated in this case. The learned counsel further submits that the co-accused was granted anticipatory bail by this Court, in Crl.O.P.(MD)No.10619 of 2021, on 04.08.2021.

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4. The learned Government Advocate (Crl. Side) submits that the petitioner is not having any bad antecedent.

5. Considering the allegations levelled against the petitioner, the period of incarceration and also the fact that the petitioner is not having any bad antecedent, this Court is inclined to grant bail to the petitioner.

6. 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 learned Judicial Magistrate, Thiruvadanai, Ramnad District and on further conditions 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 as and when required for interrogation.

[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.

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)

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of 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-II 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-II Department, dated 05.08.2020.

sd/-
10/08/2021

/ TRUE COPY /

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

MSA

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, Thiruvadanai,
   Ramnad District.

2. Do Through
   The Chief Judicial Magistrate, Ramanathapuram District.

2. The Officer Incharge, Sub Jail, Aruppukottai.

3. The Inspector of Police,
   Thiruvadanai Police Station, Ramnad District.

4. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court, Madurai.

ORDER IN
CRL OP(MD) No.10985 of 2021
Date : 10/08/2021

TRV/VR/SAB-III(10.08.2021) 3P 5C

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