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Crl.O.P.No.23581 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

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THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.23581 of 2022

C.Settu

... Petitioner

Vs.

The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Ammamet Police Station,
Salem City, Salem.

(Crime No.482 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail pending investigation in
Crime No.482 of 2022 on the file of the respondent police.

For Petitioner : Mr.K.S.Karthik Raja

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)

For Intervener : Mr.Mohamed Riyaz



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 10.09.2022 for the offences punishable under Sections 341, 294(b), 342, 447 & 506 (i) IPC & Section 3(1) of Prevention of Damage to Public Property Act, 1984, in Crime No.482 of 2022 on the file of respondent police, seek bail.

2. The case of the prosecution as per the de-facto complainant is that he has been running a quarry for the past 14 years near Varagampadi after obtaining the permission from the Government and in the year of 2021, he was permitted to run the said quarry. While so, the persons at nearby place, caused problems and prevented him from doing quarrying operation. On 02.09.2022, around 12 p.m., while the de-facto complainant had gone to quarry with machines, the accused abused the de-facto complainant and also intimidated him that he will set fire to the L& T Komatsu vehicle. Based on the complaint given by the de-facto complainant, a case in Crime No.482 of 2022.



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3. The learned counsel appearing for the petitioner would submit that it is the case registered based on the false complaint given by the de-facto complainant. He would further submit that the petitioner is the neighbour living near the land where quarrying operation is done by the de-facto complainant and he would submit that the de-facto complainant is doing illegal quarrying operations and doing quarrying operations in the surrounding places other than the places earmarked to them, due to which, the petitioner along with others have approached the NGT and the NGT has called for the Joint Committee Report and as per the report, the de-facto complainant is stated to have excavated more than the permitted limit and the amount of loss to the Government has been calculated to the tune of Rs.3,48,23,675/- and in respect of his son, the amount has been calculated to the tune of Rs.3,10,751/-. He would also submit that since the petitioners objected the illegal quarrying operations done by the petitioner, the de-facto complainant has lodged a false complaint and by keeping the petitioner in custody, is continuing with the illegal quarrying. He would further submit that the petitioner is in custody from 10.09.2022 and he undertakes to file an



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affidavit that he will not interfere in the legal quarrying operations of the de-facto complainant and that they will only resort to legal recourse against the de-facto complainant and his men and the he is prepared to file an undertaking before the learned Magistrate that they will not indulge in any illegal activities. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the de-facto complainant has been granted with quarrying permission in Masinaickenpatti and the petitioner along with others, who are the residents of the village near the quarry have objected the same and threatened the employees of the de-facto complainant and caused damage to the L& T Komatsu vehicle and threatened that they will set fire to the machine. Hence, he opposed to grant bail to the petitioner.

5.The learned counsel for the Intervener would submit that the de-facto complainant has been granted with permission from the Government to do the quarrying after payment of necessary charges. Due to the covid they were unable to conduct quarrying operations for the past 2 years and now



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when they resumed quarrying operations, the petitioner along with other prevented the quarrying operations and also threatened the employees of the de-facto complainant and caused damage to the L& T Komatsu vehicle and threatened that they will set fire to the machine. He would also submit that the petitioner has taken the law into his own hands and preventing the de-facto complainant and their employees to do quarrying operations. Hence, he opposed to grant bail to the petitioner.

6. Heard both the learned counsel for the petitioner and the intervener and the learned Government Advocate (Crl.Side) and perused the materials available on record including the typed set of papers furnished by the petitioner as well as the intervener.

7. Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsel, this Court is inclined to grant bail to the petitioner on certain conditions.



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8. Accordingly, the petitioner are ordered to be released on bail on his executing 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 **learned Judicial Magistrate V, Salem**, 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, everyday at 10.30 a.m., 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



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in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;

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

[g] the petitioner after coming out of bail, within a period of ten days, shall file an affidavit before the learned Judicial Magistrate V, stating that he will not interfere in the quarrying operations of the de-facto complainant.

29.09.2022

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To

1. The Judicial Magistrate V,
Salem.
2. The Inspector of Police,
Ammamet Police Station,
Salem City, Salem.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.

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A.D.JAGADISH CHANDIRA,J.

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