



Crl.O.P.No.26782 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM

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

Crl.O.P.No.26782 of 2022

1. Vijayakumar

2. Babavali

3. Rajesh

4. Subbaiya

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Pathirivedu Police Station,
Thiruvallur District.
Crime No.159 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in Crime No.159 of 2022 on the file
of the respondent Police.

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 10.10.2022 for the alleged offences punishable under Sections 379 & 430 of IPC r/w Section 21(1) of TN Mines and Minerals (Development and Regulation) Act, in Crime No.159 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 10.10.2022, when the respondent Police and his team were on their routine check up, the petitioners were alleged to have illegally transported 12 units of river sand without any valid licence in two lorries bearing Registration Numbers AP-39-UB-3679 and AP-39-UB-3699 respectively each containing 6 units of river sand. Hence the case.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would also submit that the petitioners are in custody from 10.10.2022 and without prejudice, the petitioners are prepared to deposit a



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considerable amount to any welfare scheme of the Government and they are prepared to abide by any stringent conditions that may be imposed by this Court and hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioners had illegally transported 12 units of river sand in two lorries bearing registration numbers AP-39-UB-3679 and AP-39-UB-3699, without any valid license. He would further submit that there is no previous case as against the petitioners. Hence, he vehemently opposed to grant bail to the petitioners.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

6. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the opinion that the petitioners are directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) each as non



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refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

7. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

8. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioners are prepared to deposit Rs.10,000/- each to any welfare scheme of the Government, this Court is inclined to grant bail to the petitioners with certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail on condition to make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only) each** by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail on their executing a



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separate 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, Gumudipoondi, 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 petitioners shall report before the respondent Police daily at 10.30 a.m., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**;



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

04.11.2022

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To

1. The Judicial Magistrate,
Gumudipoondi.
2. The Inspector of Police,
Pathirivedu Police Station,
Tiruvallur District.
3. The Central Prison,
Puzhal .
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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