



Crl.OP.No.27553 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM

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

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Kumaresan

... Petitioner

Vs.

The State
Rep. By the Inspector of Police,
Magudanchavadi Police Station,
Salem District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pertaining to Crime No.335 of 2022
pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.C.E.Pratap,
Government Advocate (crl.side),



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 30.10.2022 for the offences punishable under Sections 21(1) of Mines and Mineral (Development and Regulation) Act, 1957 read with Section 379 of IPC, 1860 in Crime No.335 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner along with the other accused had illegally transported 5 units of gravel sand in their respective vehicles viz., Hitachi and 2 Tipper Lorry Bearing Registration No. TN 28 AC 5175 & TN 28 AC 2156 without any valid permission. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he is the operator of the Hitachi vehicle and he had transported the gravel sand with valid license, however, at the time of interception, the petitioner was unable to furnish the license granted by the authorities, thereby, the respondent police registered a case. Hence, he prays to grant bail to the petitioner.



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4. The learned Government Advocate (crl.side) appearing for the respondent police would submit that the petitioner along with the other accused had illegally transported 5 units of gravel sands in their respective vehicles viz., Hitachi and 2 Tipper Lorry Bearing Registration No. TN 28 AC 5175 & TN 28 AC 2156 without valid license and there is no previous case pending against him. However, he opposed to grant bail to the petitioner.

5. At this juncture, learned counsel for the petitioner would submit that without prejudice, the petitioner is prepared to deposit an amount of Rs.10,000/- to the any Welfare Scheme of the Government.

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 petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.



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

8. Taking note of the facts and circumstances, this Court is inclined to grant bail to the petitioner with certain conditions :-

[a] the petitioner shall deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** as non refundable deposit to the credit of the **District Mineral Foundation Trust, Salem District** and on such deposit, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Sankari** 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;



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[b] the petitioner shall report before the respondent police every day at 10.30 am for a period of four weeks and thereafter every Saturday 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 abscond, a fresh FIR can be registered under Section 229A IPC.

11.11.2022

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A.D.JAGADISH CHANDIRA,J.

shk

To

1. The learned Judicial Magistrate No.II, Sankari
- 2.The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
3. The Central Prison,
Salem
4. The Public Prosecutor,
High Court of Madras.

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