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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 22/12/2022

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.22664 of 2022

Senthilkumar ... Petitioner/Accused

Vs

The State Rep. by,
The Inspector of Police,
Ammapettai Police Station,
Thanjavur District.
(Crime No.1747/2022). ... Respondent/Complainant

For Petitioner : M/s. Arun Prasad.A,
Advocate.
For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.1747/2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 10.12.2022 for the offence punishable under Sections 379 IPC r/w 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.1747 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner has transported ¼ unit of river sand illegally by using bullock cart. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner has taken sand for his personal consumption and he has not done with any business motive. He would further submit that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he seeks for bail.

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4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is a habitual offender and he has got two previous cases. Hence, he opposed for grant of bail to the petitioner.

5.In reply, the learned counsel for the petitioner would submit that when the matter was listed yesterday, ie., on 21.12.2022, this Court had directed the petitioner to file an affidavit of undertaking that he will not indulge in such activities in future. He would further submit that without prejudice, the petitioner is ready and willing to deposit an amount of Rs.10,000/- (Rupees Ten Thousand only) to any welfare scheme.

6.Heard. Perused the materials available on record including the First Information Report.

7.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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, Papanasam, and on further conditions that:

(b) 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.

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, every Saturday at 10.30 a.m., until further orders;

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

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(h) on breach of any of the aforesaid conditions, the ed Judicial 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];

(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8.The affidavit of undertaking filed by the petitioner shall form part of the Court records.

sd/-
22/12/2022

/ TRUE COPY /

22/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. THE JUDICIAL MAGISTRATE, PAPANASAM.

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

3. THE OFFICER-INCHARGE,
   SUB-JAIL, PAPANASAM.

4. THE INSPECTOR OF POLICE,
   AMMAPETTAI POLICE STATION, THANJAVUR DISTRICT.

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

COPY TO :
THE OFFICER-INCHARGE,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.

ORDER
IN
CRL OP(MD) No.22664 of 2022
Date :22/12/2022

USK/VR/SAR-I/22.12.2022/3P/7C

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