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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28.12.2022

PRESENT

The Hon`ble Ms.Justice R.N.MANJULA

CRL OP(MD). No.23292 of 2022

Kannan

... Petitioner/2nd Accused

Vs

State represented by its
The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.
(Crime No.517 of 2022).

... Respondent/Complainant

For Petitioner : Mr.D.Dhana Chandra Prakash, Advocate.
For Respondent : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor.

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

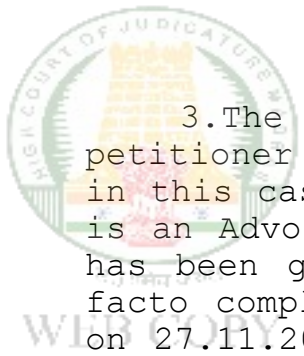
PRAYER :-

For Bail in Crime No.517 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A.2, who was arrested and remanded to judicial custody on 09.12.2022 for the offences punishable under Sections 147, 379 and 307 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.517 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant Selvaraj, is that the land in S.No.983/1 measuring to an extent of 86 cents situated at Venkateshwapuram Village, Srivilliputhur Taluk, belongs to his father, the de-facto complainant was taking care of it. While so, on 27.11.2022, two named accused and three identified persons trespassed into the property and had illegally taken a sand from the land. When the de-facto complainant had attempted to stop them, they had tried to assault and escaped from the scene of occurrence. The value of the stolen sand worth about Rs.1,00,000/-. Hence, the complaint.



3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the de-facto complainant is an Advocate and taking advantage of the same, a false complaint has been given. He would further submit that even as per the de-facto complainant, the alleged occurrence said to have taken place on 27.11.2022 and the case has been given to the respondent after five days, ie., on 02.12.2022. Hence, he seeks bail.

4.The learned Additional Public Prosecutor would submit that the petitioner along with other accused had committed a theft of red sand from the patta land belonging to the de-facto complainant's family and he opposed for grant of bail.

5.The learned counsel for the petitioner would submit that the first accused was already released on bail by this Court in Crl.O.P. (MD)No.21686 of 2022 dated 08.12.2022. He would submit that without prejudice to his defence, the petitioner is prepared to deposit a sum of Rs.50,000/- to the credit of Crime No.517 of 2022 before the trial Court.

6.Considering the above facts and circumstances of the case and also the fact that the first accused was already released on bail this Court is inclined to grant bail to the petitioner subject to the following conditions:

7.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 No.2, Srivilliputhur.

(i)at the time of executing sureties, the petitioner shall pay a sum of **Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Crime No.517 of 2022 before the learned Judicial Magistrate No.2 Srivilliputhur**, without prejudice to his rights and contentions before the trial Court and the same can be disbursed depending upon the outcome of the trial.

(ii)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii)the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(iv)the petitioner shall not tamper with evidence or witness;

(v)the petitioner shall not abscond during trial;

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

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

sd/-

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

CSM

TO

1 THE JUDICIAL MAGISTRATE NO.2, SRIVILLIPUTHUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE, SRIVILLIPUTHUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

4 THE OFFICER INCHARGE, DISTRICT PRISON, VIRUDHUNAGAR.

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

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-15612[I] dated
28/12/2022)

ORDER

IN

CRL OP(MD) No.23292 of 2022

Date :28/12/2022

RS/BUC/SAR.(28.12.2022) 3P-7C