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Crl.O.P.No.8391 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

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

Crl.O.P.No.8391 of 2023

Karthik

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Malliyakarai Police Station,
Salem District.
Crime No.33 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.33
of 2023 pending on the file of respondent police.

For Petitioner : Mr.R.Nalliyappan

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

ORDER

The petitioner, who was arrested and remanded to judicial
custody on 30.03.2023 for the offences punishable under Sections 379 IPC
r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act



Crl.O.P.No.8391 of 2023

in Crime No.33 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 29.03.2023, while the respondent Police and his team were on their routine patrol duty, the petitioner was found in illegal transportation of 3 units of red soil in the Tipper Lorry bearing registration No.TN-10-L-8397, without any valid license. Hence, the complaint.

3. Learned counsel appearing 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 petitioner is ready to abide by any stringent condition that may be imposed by this Court. Hence, he prays to grant bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner was found in illegal transportation of 3 units of red soil in the Tipper Lorry bearing registration No.TN-10-L-8397, without any valid license. He would further submit that there is no previous case pending against the petitioner. However, he



Crl.O.P.No.8391 of 2023

opposed for grant of bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.10,000/- to any welfare scheme run by the Government. Hence, he prays for grant of bail to the petitioner.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of "**District Mineral Foundation Trust concerned**", without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner has deposited the said amount, it



CrI.O.P.No.8391 of 2023

would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the fact that the petitioner has come forward to deposit an amount of Rs.10,000/- to the credit of the "**District Mineral Foundation Trust concerned**" and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

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



Crl.O.P.No.8391 of 2023

Magistrate No.II, Attur, 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., for a period of two weeks and thereafter, on every Saturday 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 in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*;

[f] If the accused thereafter abscond, a fresh FIR



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Crl.O.P.No.8391 of 2023

can be registered under Section 229A IPC.

19.04.2023

vkr

To

1. The Judicial Magistrate No.II, Attur.
2. The Inspector of Police,
Malliyakarai Police Station,
Salem District.
3. The Sub Jail, Attur.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.8391 of 2023

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.8391 of 2023

19.04.2023