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Crl.O.P.No.18879 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.18879 of 2023

Sivarajan @ Sivaraj

...Petitioner

Vs.

The State
Rep by Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.
Crime No.133 of 2019.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail, pending investigation in Crime No.133 of 2019, on the file of the respondent police.

For Petitioner : Mr.Chandran Sundar
for Ms.V.Mythili

For Respondent : Mr.S.Rajakumar,
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.07.2023 for the offence punishable under Sections 379 & 430 of IPC r/w. 21(1) of Mines and Minerals (Development and Regulations) Act in Crime No.133 of 2019 on the file of the respondent police, seeks bail.

2.Learned counsel for the petitioner submitted that, petitioner is an innocent person and he has been falsely implicated as an 3rd accused in a case registered for the offences punishable under Sections 379 & 430 of IPC r/w. 21(1) of Mines and Minerals (Development and Regulations) Act in Crime No.133 of 2019. Petitioner is in judicial custody from 25.07.2023. In the said circumstances, he seeks bail to the petitioner.

3. In response, learned Additional Public Prosecutor opposes this petition, on the ground that, on 24.05.2019 accused in this case had illegally transported 1/2 unit of savudu sand in a lorry bearing No.TN51 H 8650. Though petitioner has some other IPC cases pending against



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him, this is the 1st case registered against the petitioner for theft of sand.

4. Considering the fact that, petitioner is in judicial custody from 25.07.2023, and the fact that sand and vehicle had been recovered and that substantial part of the investigation might have been completed by this time, this Court is inclined to grant bail to the petitioner. Accordingly, petitioner is ordered to be released on bail on their 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 **Judicial Magistrate Court II, Nagapattinam** 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 daily morning at 10.30 a.m., until further orders.

[c] the petitioner shall not abscond either during investigation or trial.



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[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 absconds, a fresh FIR can be registered under Section 229A IPC.

30.08.2023

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To

1.The Judicial Magistrate Court II,
Nagapattinam.

2.The Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.

3.The District Prison,
Nagapattinam.

4.The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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