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CrI.OP.No.23583 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **12.10.2023**

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

CrI.OP.No.23583 of 2023

Elumalai

S/o.Sounder

..Petitioner

Vs.

The State Rep. By
The Inspector of Police,
Jolarpet Police Station,
Thirupathur District.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.343 of 2023 pending on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan
For Respondent : Mr.R.Kishore Kumar
Government Advocate

ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.09.2023, for the offences punishable under Sections 379 and 430 IPC read with Section 21(1) of Mines & Minerals (Development & Regulation) Act, 1957, in Crime No.343 of 2023, on the file of the respondent police seeks bail.



Crl.OP.No.23583 of 2023

2. The learned counsel for the petitioner stated that, petitioner is an innocent person and he has been falsely implicated in the case registered in Crime No.343 of 2023, for the offences under Sections 379 and 430 IPC read with Section 21(1) of Mines & Minerals (Development & Regulation) Act, 1957. Thus, he seeks bail to the petitioner.

3. It is stated by the learned Government Advocate (Crl.Side) submitted that, on 16.09.2023, at about 18.00 hours, defacto complainant along with the police party were engaged in routine surveillance near Koothandakuppam Mandhiri Nagar. At that time, they found the the accused transporting ½ unit of river sand in a Tractor with Trailer bearing Registration No.TN 83 2775. On seeing the police, they escaped from the scene of occurrence. Petitioner herein is the owner of the vehicle. It is also stated that the vehicle and the river sand had been recovered. Thus, he prayed for dismissal of this petition.

4. Considering the fact that vehicle and the river sand had been recovered and having regard to the fact that, petitioner is in Judicial Custody from 16.09.2023, this Court is inclined to grant bail to the



CrI.OP.No.23583 of 2023

petitioner.

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5. 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.1, Thirupattur** 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 without prejudice to his defence shall deposit a non-refundable sum of **Rs.7,500/-** (Rupees Seven Thousand Five Hundred only), by way of Demand Draft to the District Revenue Officer, Thirupathur District and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond; It is made clear that merely, because the petitioner deposits 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.



CrI.OP.No.23583 of 2023

[c] the petitioner shall report before the respondent police daily at 10.00.a.m., for a period of two weeks and thereafter, as and when required by the respondent police.

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

12.10.2023

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To



CrI.OP.No.23583 of 2023

1. Judicial Magistrate No.1, Thirupathur.

2. The Inspector of Police,
Jolarpet Police Station,
Thirupathur District.

3. Sub Jail, Thirpathur.

4. The Public Prosecutor,
High Court of Madras

C.V.KARTHIKEYAN, J.



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Crl.OP.No.23583 of 2023

mkn2/sli

Crl.O.P.No.23583 of 2023

12.10.2023