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CRL.O.P.No.24862 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2023

CORAM :

THE HON'BLE Mrs.JUSTICE **R.KALAIMATHI**

CRL.O.P.No.24862 of 2023

Chandresh

... Petitioner

Vs.

State rep by the
The Sub Inspector of Police,
Vaniyambodi Taluk Police Station,
Thirupathur District

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail concerned in Crime No.434 of 2023 pending investigation before the respondent police.

For Petitioner : M/s. E.Kannadasan

For Respondent : Mr.S.Balaji
Government Advocate (Crl. Side)



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CRL.O.P.No.24862 of 2023

ORDER

The petitioner who was arrested and remanded to judicial custody on 07.10.2023 for the offences punishable under Sections 379 and 430 of IPC in Crime No.434 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 07.10.2023, while the respondent police was on routine patrol duty near Palar Bridge, the petitioner was found with illegal possession of 75 kgs of river sand by using a two wheeler without any valid license. Hence, the complaint.

3. The 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 submit that the petitioner has no previous case against him. On instruction, he would further submit that without prejudice to their defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association, and that the petitioner is suffering incarceration from 07.10.2023. Hence, he prays to grant bail to the petitioner.



CRL.O.P.No.24862 of 2023

WEB COPY

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on 07.10.2023, the petitioner was found with illegal possession of 75 kgs river sand by using TVS XL two wheeler without any valid license. He would further submits that there is one previous case against the petitioner. However, he opposed to grant bail to the petitioner.

5. In order to curb the illegal sand mining activities, this Court is of the opinion that the petitioner shall be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each, as non refundable deposit to the **“Government Yoga and Naturopathy Medical College and Hospital, Chennai”**, without prejudice to their rights and contentions before the trial Court.

6. Merely, because the petitioner deposits the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.



CRL.O.P.No.24862 of 2023

WEB COPY

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioner from 07.10.2023, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is directed to make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)**, through RTGS/NEFT in favour of the "**Government Yoga and Naturopathy Medical College and Hospital, Chennai** ", on such deposit and production of proof, the petitioner is ordered to be released on bail on condition to execute a separate 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 District Magistrate cum Judicial Magistrate, Vaniyambadi**, and on further conditions that:

(b) 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;

(c) **the petitioner shall report before respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30.a.m., until further orders.**

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

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



CRL.O.P.No.24862 of 2023

WEB COPY

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

(g) on breach of any of the aforesaid conditions, the learned 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]***;

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

8. With the above directions, this Criminal Original Petition is ordered.

26.10.2023

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CRL.O.P.No.24862 of 2023

R.KALAIMATHI, J.

smn/vca

To

- 1.The District Magistrate cum Judicial Magistrate Court,
Vaniyambadi.
2. The Sub Inspector of Police,
Vaniyambadi Taluk Police Station,
Thirupathur District.
- 3.The Superintendent
Sub Jail, Vaniyambadi
- 4.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

CRL.O.P.No.24862 of 2023

26.10.2023