



CRL.O.P.No.24903 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.24903 of 2023

Chinnaraj

... Petitioner/Accused

Vs.

The State rep by
The Inspector of Police,
Vaniyambadi Taluk Police Station,
Thirupathur District.
(Crime No.435 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.435 of 2023 on the file of the respondent police.

For Petitioner : Mr.R.Parthiban

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



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CRL.O.P.No.24903 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 IPC in Crime No.435 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in illegal possession of 75 Kgs of river sand in a two wheeler. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that without prejudice to his defence, the petitioner is prepared to deposit a considerable amount to any charitable Organization or Association. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was found in illegal possession



CRL.O.P.No.24903 of 2023

of 75 Kgs of river sand in a two wheeler. He would further submit that there are five previous cases pending against the petitioner herein. Thus, 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), as non refundable deposit to the **“The Government Leprosy Rehabilitation Home, Paranur, Chengalpet”**, without prejudice to his rights and contentions before the trial Court.

6. 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.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:



CRL.O.P.No.24903 of 2023

WEB COPY

(a) Accordingly, the petitioner is directed to make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)**, by way of **Demand Draft drawn in** favour of the **“The Government Leprosy Rehabilitation Home, Paranur, Chengalpet”**, on such deposit and production of proof, the petitioner is ordered to be released on bail on condition to execute 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 Court, Vaniyambadi**, and on further conditions that:

(b) the sureties shall affix his photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of his Aadhar Card or Bank Pass Book to ensure their identity.

(c) **the petitioner shall report before respondent police everyday 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;

(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]***;



CRL.O.P.No.24903 of 2023

WEB COPY

(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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To

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



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CRL.O.P.No.24903 of 2023

R.KALAIMATHI. J.

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CRL.O.P.No.24903 of 2023

26.10.2023