



Crl.O.P.No.28543 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

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

Crl.O.P.No.28543 of 2023

Rajesh @ Malabar S/o. Dhamotharan

...Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Gudiyatham Taluk Police Station,
Gudiyatham, Vellore District.

(Crime No.412 of 2023)
...Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail concerned in Crime No.412 of
2023 on the file of the respondent police on such terms and conditions.

For Petitioner : Mr.G.Vinodhkumar

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)



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ORDER

The petitioner seeks bail in Crime No.412 of 2023, registered by the respondent police for the offences punishable under Sections 379 & 430 of IPC. The petitioner had been taken into custody on 07.11.2023.

2.It was earlier stated that was a process to detain the petitioner under Tamil Nadu Act 14 of 1982. Accordingly, the earlier application seeking bail was dismissed with liberty to file fresh application, if such process had not completed within three weeks from the date of dismissal. That time is lapsed.

3. The case of the prosecution is that the petitioner was alleged to have transported ½ unit of river sand in a Van. Hence the complaint.

4. The learned counsel for the petitioner stated that the petitioner is an innocent and he has been falsely implicated in this case. He further stated that the petitioner is ready to abide by any condition imposed by this Court. Hence, he prays for grant of bail to the petitioner.

5. The learned Government Advocate (Crl. Side) for the respondent stated that the petitioner has illegally transported ½ unit of river sand in



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a Van. Hence, he vehemently opposed to grant bail to the petitioner.

6. In order to curb illegal sand mining activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the **District Revenue Officer, Vellore**, without prejudice to his rights and contentions before the trial Court.

7. 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.

8. Taking into consideration the facts and circumstances and the submissions made by the learned counsels, this Court is inclined to grant bail to the petitioner subject to the following conditions:

9. Accordingly, the petitioner shall make a non-refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) to the credit of the District Revenue Officer, Vellore, and 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 Judicial Magistrate,



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Gudiyatham, 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, as and when required for interrogation.

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

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To

1. The Judicial Magistrate, Gudiyatham.
2. The Central Prison, Vellore.
3. The Inspector of Police,
Gudiyatham Taluk Police Station,
Gudiyatham, Vellore District.
4. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN. J.



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