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Crl.O.P.No.29053 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.DHANABAL

Crl.O.P.No.29053 of 2023

Rajesh@Malabar

... Petitioner

Vs.

The State rep by
The Inspector of Police,
Gudiyatham Taluk Police Station,
Gudiyatham, Vellore District,
Crime No.87 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner / Accused on bail in Crime No.87 of 2023
pending on the file of the respondent Police.

For Petitioner : Mr.G.Vinodhkumar

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody
on 07.11.2023 for the offences punishable under Sections 379, 430 of IPC in
Crime No.87 of 2023 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that the petitioner was found to



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transporting 1/2 unit of river sand in a Lorry. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner has been in judicial custody from 07.11.2023 and hence, he seeks for granting of bail to the petitioner.

4.The learned Additional Public Prosecutor for the respondent submitted that the petitioner was found in illegal possession of 1/2 unit of river sand. She further submitted that there are no previous case pending against the petitioner. Hence, she opposed for granting of bail to the petitioner.

5.Heard both side and perused the materials available on record.

6.Considering the rival submissions made on either side and taking into consideration the period of incarceration undergone by the petitioner and **there are no previous case pending against the petitioner and also taking note of the quantity involved in this case**, I am inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, 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, Gudiyatham and on further conditions that:



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[b] the petitioner shall report before the respondent police on every Saturday at 10.00 a.m for a period of four weeks.

[c] the petitioner shall not commit any offences of similar nature.

[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 Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

28.12.2023

smn/shl

To



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



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P.DHANABAL, J.

smn/shl

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