



CRL OP(MD). No.22437 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.22437 of 2023

Kaviyarasan,

... Petitioner/Sole Accused

Vs

The State rep. by,
The Inspector of Police,
Naducavery Police Station,
Thanjavur District.
(Crime No.428 of 2023).

... Respondent/Complainant

For Petitioner : M/s.Sivasubramanian.A,
Advocate.

For Respondent : Mr.R.M.S.Sethuraman,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime no.428 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody



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on 02.12.2023 for the alleged offences punishable under Sections 379 of IPC r/w.21(1) of Mines and Minerals (Development and Regulation) Act in Crime No.428 of 2023, on the file of the respondent police, seeks bail.

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2.The case of the prosecution is that the petitioner has illegally transported $\frac{1}{4}$ unit of river sand in a bullock cart. Hence the case.

3.The learned counsel appearing for the petitioner would contend that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in custody from 02.12.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that petitioner has illegally transported $\frac{1}{4}$ unit of river sand in a bullock cart, hence he objected to grant bail to the petitioner. However he fairly concedes that no previous case is pending against the petitioner.

5.Considering the facts and circumstances and also considering the period of incarceration and also taking into consideration the fact that no previous case is



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pending against the petitioner and also taking into consideration the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[i] 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, Thiruvaiyaru and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the petitioner shall appear before the trial Court on receipt of summons;

(iv) the petitioner shall not tamper with evidence or witness;

(v) the petitioner shall not abscond during trial.



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(vi) 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
18/12/2023

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18 /12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

1. The Judicial Magistrate, Thiruvaiyaru.
2. Do through the Chief Judicial Magistrate, Thanjavur District at Kumbakonam.



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3. The Officer Incharge, Sub Jail, Thanjavur.

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4. The Inspector of Police,
Naducavuvery Police Station,
Thanjavur District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.22437 of 2023
Date :18/12/2023

SSA/18.12.2023/5P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023