



Crl.O.P.(MD) No.23540 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
[Criminal Jurisdiction]

Date : 28.12.2023

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.(MD) No.23540 of 2023

Karuppusamy @ Sankaranayanan

... Petitioner / A2

Vs

State Rep. by
The Inspector of Police,
Budalur Police Station,
Thanjavur District.
Crime No.438 of 2023

... Respondent / Complainant

For Petitioner : Mr.P.Surliraja, Advocate

For Respondent : Mr.P.Kottaichamy
Government Advocate (Criminal side)

PRAYER: Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail to the petitioner/A2 in Crime No.438 of 2023 on the file of the respondent police.



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ORDER : The Court made the following order :-

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This Criminal Original Petition has been filed by the petitioner on 26.12.2023 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.

2. The petitioner/A2 was arrested and remanded to judicial custody on 16.12.2023 for the alleged offences punishable under Section 379 of the Indian Penal Code, 1860 (Act No.45 of 1860) r/w Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 (Act No.67 of 1957) in Crime No.438 of 2023, on the file of the respondent police.

3. The case of the prosecution is that on 15.12.2023, when the police were indulged in patrolling to supervise the theft of river sand, they found that the petitioner along with other accused have illegally excavated and transported river sand in bullock carts, each carrying $\frac{1}{4}$ unit of sand. Hence, the case.

4. The learned counsel for the petitioner submitted that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He



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further submitted that the petitioner is in judicial custody since 16.12.2023. He, therefore, prayed to grant bail to the petitioner.

5. The learned Government Advocate (Criminal side) appearing for the respondent police submitted that the petitioner along with other accused have illegally excavated and transported river sand in two bullock carts admeasuring to an extent of $\frac{1}{4}$ unit each. He further submitted that the petitioner has no previous case; that the investigation is not completed; and that at this stage of investigation, if bail is granted to the petitioner, he will cause threat to the defacto complainant and the witnesses. Accordingly, he prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. The petitioner is a first offender and he has no previous case. He has permanent residence and deep roots in the society. Hence, there is no possibility for absconding. Considering the above reasons and considering the period of incarceration, this Court is inclined to grant bail to the petitioner, however subject to certain conditions. Accordingly bail is granted to the petitioner subject to the following conditions;



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(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) and furnish two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate, Thiruvaiyaru;

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate, Thiruvaiyaru shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioner shall appear and sign before the learned Judicial Magistrate, Thiruvaiyaru on all working days at 10.00 a.m., until further orders;

(iv) The petitioner shall not either directly or indirectly cause any threat to the defacto complainant and witnesses;

(v) On breach of any of the aforementioned conditions, the learned Judicial Magistrate is entitled to pass appropriate orders against the petitioner in accordance



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with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-
28/12/2023

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29/12/2023
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1.The Judicial Magistrate,
Thiruvaiyaru.
- 2.Do through the Chief Judicial Magistrate,
Thanjavur @ Kumbakonam
- 3.The Inspector of Police,
Budalur Police Station,
Thanjavur District.
- 4.The Officer Incharge. Sub Jail,
Papanasam.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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+1 CC to M/s.P.SURLI RAJA, Advocate (SR-18407[I] dated 28/12/2023)

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ORDER

IN

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Date :28/12/2023

RK (29/12/2023) 6P / 7C

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