



CrI.O.P.(MD) No.23528 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

CrI.O.P.(MD) No.23528 of 2023

Perumal

... Petitioner / Sole Accused

Vs

The Inspector of Police,
Kabishtalam Police Station,
Thanjavur District.
Crime No.695 of 2023

... Respondent/Complainant

For Petitioner : Mr.K.SUYAMBULINGA BHARATHI, Advocate

For Respondent : Mr.P.KOTTAI CHAMY
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/sole accused in Crime No.695 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

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/sole accused was arrested and remanded to judicial custody

on 10.12.2023 for the alleged offences punishable under Section 379 of the Indian

<https://www.mhc.tn.gov.in/judis>



Crl.O.P.(MD) No.23528 of 2023

Penal Code, 1860 (Act No.45 of 1860) r/w Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957 (Act No.67 of 1957) in Crime No.695 of 2023 on the file of the respondent police.

3. The case of the prosecution is that on 10.12.2023 when the police were indulged in patrolling duty to supervise the theft of river sand, the police found that the petitioner has illegally excavated and transported river sand in bullock cart admeasuring to an extent of $\frac{1}{4}$ unit without any valid permission. 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 further submitted that the petitioner is in judicial custody from 10.12.2023. 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 has illegally excavated and transported river sand in bullock cart admeasuring to an extent of $\frac{1}{4}$ unit without any valid permission. He further submitted that the petitioner has no previous case and the investigation is not yet completed and that at this stage of investigation, if bail is granted to the petitioner, he will cause threat to the defacto complainant and witnesses. Accordingly, he prayed to dismiss this Criminal Original Petition.

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



Crl.O.P.(MD) No.23528 of 2023

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7. Petitioner is a first offender and has no previous case. Considering the nature of offence, quantity of sand alleged to have been excavated and transported by the petitioner and considering the period of incarceration, this Court is inclined to grant bail to the petitioner however subject to the conditions. Accordingly, bail is granted to the petitioner subject to the following conditions;

(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, Papanasam;

(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, Papanasam 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, Papanasam on all working days at 10.00 a.m., until further orders;

(iv) The petitioner shall not, 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



Crl.O.P.(MD) No.23528 of 2023

in accordance 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

/ TRUE COPY /

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

AAV
TO
1 THE JUDICIAL MAGISTRATE,
PAPANASAM, THANJAVUR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THANJAVUR DISTRICT AT KUMBAKONAM.

3 THE INSPECTOR OF POLICE,
KABISHTHALAM POLICE STATION,
THANJAVUR DISTRICT.

4 THE OFFICER INCHARGE,
SUB JAIL, THANJAVUR.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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Crl.O.P.(MD) No.23528 of 2023

ORDER
IN
CRL OP(MD) No.23528 of 2023
Date :28/12/2023

SA/SAR. /29.12.2023/5P/6C

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