



Crl.O.P.(MD) No.23535 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.23535 of 2023

Ramkumar

... Petitioner/Sole Accused

Vs

State rep by
The Inspector of Police,
Kabisthalam Police Station,
Thanjavur District.
Crime No.618 of 2023

... Respondent/Complainant

For Petitioner : Mr.P.Mani Anand, Advocate
for Mr.K.Suyambulingabharathi, Advocate

For Respondent : Mr.M.Veeranthiran
Government Advocate (Crl.Side)

PRAYER: Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail to the petitioner/Sole Accused in Crime No.618 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/Sole Accused on 26.12.2023 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of



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1974) praying to grant an order of pre-arrest bail.

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2. The petitioner / Sole Accused, apprehends arrest at the hands of the respondent police for the alleged punishable offences under Section 379 of the Indian Penal Code, 1860 (Act No.45 of 1860) and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957 (Act No.67 of 1957 in Crime No.618 of 2023 on the file of the respondent police.

3. The case of the prosecution is that on 08.11.2023, at about 20 hours, when the police party on surveillance at Kaveri river bed, Aduthurai, they found one bullock cart; that on seeing the police party, a person in the bullock cart fled away from the place of occurrence; that the bullock cart was carrying $\frac{1}{4}$ unit of river sand; and that on enquiry, it was found that the petitioner has illegally transported $\frac{1}{4}$ unit of river sand worth about Rs.1,000/- in a bullock cart without having any valid license or permit or valid document from the authorities. Hence, the case.

4. The learned counsel for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in this case and that no previous case is pending against the petitioner. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioner.



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5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner is the sole accused in this case; ant that the petitioner has illegally transported $\frac{1}{4}$ unit of river sand, worth about Rs.1,000/-, in a bullock cart without having any valid license or valid documents from the authorities. He submitted that the petitioner has previous case.

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

7. The case of the prosecution is that the petitioner has illegally transported $\frac{1}{4}$ unit of river sand worth about Rs.1,000/-, in a bullock cart without having any valid license or valid documents. The petitioner has no bad antecedent and the quantity involved in this case is a small quantity.

8. The petitioner is a first offender. The petitioner has no previous case. His age is 18 years old. The petitioner has permanent residence.

9. Considering the facts and circumstance of the case, this Court is of the view that an opportunity shall be give to the petitioner to reform himself. Hence, this court



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is inclined to grant an order of pre-arrest bail to the petitioner subject to the following conditions.

(i) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate, Papanasam, Thanjavur District within a period of 15 days from today, on executing a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum of Rs.20,000/- (Rupees Twenty Thousand Only) to the satisfaction of the learned Judicial Magistrate, Papanasam, Thanjavur District;

(ii) The petitioner shall appear and sign before respondent police, daily at 10.00 a.m, until further orders;

(iii) 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;

(iv) The petitioner shall make himself available for interrogation by police as and when required;



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(v) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(vi) The petitioner shall not leave India without the prior permission of the Court; and

(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner 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].

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

sd/-
28/12/2023

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/01/2024
Sub-Assistant Registrar (C.S. -I,II,III,IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dss



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TO
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- 1.The Judicial Magistrate,
Papanasam, Thanjavur District.
- 2.Do through the Chief Judicial Magistrate,
Thanjavur District @ Kumbakonam
- 3.The Inspector of Police,
Kabisthalam Police Station,
Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.23535 of 2023
Date :28/12/2023

RK/VR(03/01/2024) 6P / 5C
Madurai Bench of Madras High Court is issuing certified copies in this format from
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