



Crl.O.P.(MD) No.23578 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.23578 of 2023

1.Mani
2.Pandiyarajan

... Petitioners / Accused Nos.3 & 4

Vs

The State rep by
The Inspector of Police,
Kottaipattinam Police Station,
Pudukkottai District.
(Crime No.100 of 2023)

... Respondent/Complainant

For Petitioners : Mr.B.Ramnath,Advocate

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

PETITION FOR ANTICIPATORY BAIL U/S 438 OF Cr.P.C

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 petitioners/A3 & A4 in Crime No.100 of 2023 on the file of the respondent-police.



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 26.12.2023 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2. The petitioners / A3 & A4, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 of the Indian Penal Code, 1860 (Act No.45 of 1860) r/w 21(1)(2) of the Mines and Minerals (Development and Regulation) Act/1957 (Act No.67 of 1957) in Crime No.100 of 2023 on the file of the respondent police.

3. The defacto complainant is the Village Administration Officer of Rettaiyalam Village. The case of the prosecution is that on 22.12.2023, when he was on surveillance, he found two Tipper Lorries bearing Reg.No.TN-32-Q-2679 and TN-31-AY-6458 each loaded with 3 units of river sand without any valid license or permission. Hence, the case.

4. The learned counsel for the petitioners seeks permission of this Court to withdraw this Criminal Original Petition in so far as the first petitioner/A3 is concerned. He has also made an endorsement in the case file to that effect and a scanned reproduction of the same is as follows:



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A3 Concurrence of Petitioner
Counsel for Petitioner
T. Lokesh Kumar
for B. Ramnadar
28/12/23

5. He further submitted that the second petitioner/A4 is an innocent and a false case has been foisted against him. He further submitted that the second petitioner/A4 is the owner of the Lorry bearing Reg.No.TN-32-Q-2679 and that without his knowledge, his lorry was used in the above said occurrence. He further submitted that only based on the confession given by the co-accused, the second petitioner/A4 has been falsely implicated in this case. Accordingly, he prayed to grant an order of pre-arrest bail to the second petitioner/A4.

6. The learned Government Advocate (Crl.Side) appearing for the respondent-police submitted that the petitioners along with other accused illegally transported 6 units of river sand worth about Rs.50,000/- and that the second petitioner/A4 has one previous case. Accordingly, he prayed to dismiss this Criminal Original Petition.



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

8. Recording the submission made by the learned counsel for the petitioners in respect of not pressing this Criminal Original Petition insofar as the first petitioner/A3 is concerned and the endorsement made by him in the case file to that effect, this Criminal Original Petition insofar as the first petitioner/A3 is concerned is dismissed as not pressed. This Court only considers the case of the second petitioner/A4.

9. The second petitioner/A4 has one previous case which is similar to the present case. Considering the fact that the petitioner has been arrayed as accused in this case based on the confession said to have given by the co-accused and with a view to give one more opportunity to the second petitioner/A4 to reform himself, this Court grants an order of pre-arrest bail to the second petitioner/A4 subject to the following conditions.

(i) The second petitioner/A4 shall be released on bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate, Aranthangi, Pudukottai 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 (of which one shall be the blood related surety) each for a like sum Rs.20,000/- (Rupees Twenty Thousand only) to the satisfaction of the learned Judicial Magistrate, Aranthangi,

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Pudukottai District;

(ii) The second petitioner/A4 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 shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The second petitioner/A4 shall make himself available for interrogation by police as and when required;

(v) The second petitioner/A4 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 second petitioner/A4 shall not leave India without the prior permission of the jurisdictional Magistrate/Trial 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/A4 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].

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

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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

TO

- 1 THE JUDICIAL MAGISTRATE,
ARANTHANGI, PUDUKOTTAI DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KOTTAIPATTINAM POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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+1. CC to T.LENINKUMAR Advocate SR.No.18402(I) dT: 28/12/2023

ORDER
IN
CRL OP(MD) No.23578 of 2023
Date :28/12/2023

PKP/DD/SAR- /02.01.2024/ 7P/ 6

Madurai Bench of Madras High Court is issuing certified
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