



Crl.O.P.(MD) No.23586 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.23586 of 2023

Rameshperabu

... Petitioner/ Accused rank not known

Vs

The State Rep by
The Inspector of Police,
Budalur Police Station,
Thanjavur District.
(Crime No.416 of 2023)

... Respondent / Complainant

For Petitioner : Mr.P.Surliraja, 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/accused rank not known, in Crime No.416 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 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying



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to grant an order of pre-arrest bail.

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2. The petitioner / rank not known, apprehends arrest at the hands of the respondent police 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.416 of 2023 on the file of the respondent-police.

3. The case of the prosecution is that on 01.12.2023, at about 05.00 a.m, when the respondent-police were on surveillance duty, at Vendaiyampatti Panchayat Office, a 'Mahindra Bolero Max Truck' bearing Reg.No.TN-18-C-8060, a 'Mahindra Bolero Pick Up Van' without any registration number, a 'Hero Passion Pro' bearing Reg.No.TN-49-AP-0063 and a 'Yamaha FZ' bearing Reg.No.TN-61-R-1387 were approaching in opposite direction; that when the respondent-police made a signal to stop all the vehicles, the persons in all the vehicles stopped the vehicles and fled away from the scene of occurrence and that on search, they found ½ unit illegally transported river sand in the said 'Mahindra Bolero Max Truck' and 'Mahindra Bolero Pick Up Van'. 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. He further submitted that the name of the petitioner was not mentioned in the FIR; that only, based on the



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confession given by A2, the petitioner has been falsely implicated in this case and that A1 to A3 were arrested and subsequently, released on bail on 21.12.2023. He therefore prayed to grant an order of pre-arrest bail to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent-police submitted that totally, 4 accused are involved in this case; that even though, the petitioner is not arrayed as accused sofar, A2 in his confession statement, has stated that the petitioner herein is the owner of the two wheeler bearing Reg.No.TN-49-AP-0063; that hence, the petitioner is having knowledge about the above said occurrence; and that the petitioner has 2 previous cases, one under Section 379 of IPC and another under Sections 147, 148 and 506 (ii) of the IPC.

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

7. The petitioner is the owner of the two wheeler bearing Reg.No.TN-49-AP-0063. The petitioner has two previous cases under Sections 379 and 147, 148 and 506 (ii) of IPC.

8.Considering the fact that the petitioner has been arrayed as accused in this case based on the confession allegedly given by the co-accused and with a view to give one more opportunity to the petitioner to reform himself, this Court is inclined to grant an order of pre-arrest bail to the petitioner with conditions. Accordingly, pre-arrest bail is granted to the petitioner subject to the following conditions;



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(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, Thiruvaiyaru, 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 (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, Thiruvaiyaru, 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 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;

(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;



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(vi) The petitioner shall not leave India without the prior permission of the jurisdictional Judicial 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 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].

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

sd/-
28/12/2023

/ TRUE COPY /

/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,
Thiruvaiyaru, Thanjavur District.

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



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3.The Inspector of Police,
Budalur Police Station,
Thanjavur District.

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

+1 CC to M/s.P.SURLI RAJA, Advocate (SR-18408[I] dated 28/12/2023)

ORDER
IN
CRL OP(MD) No.23586 of 2023
Date :28/12/2023

ED/DD /SAR- (04/01/2024) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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