



Crl.O.P.(MD) No.23606 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.23606 of 2023

Settu

... Petitioners/ Accused No.1

Vs

The Sub Inspector of Police,
Budalur Police Station,
Thanjavur District.
Crime No.438 of 2023

... Respondent/Complainant

For Petitioner	:	Mr.M.Sankar, 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/ A1 in Crime No.438 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 to grant an order of pre-arrest bail.

2. The petitioner/Accused No.1, apprehends arrest at the hands of the



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respondent police for the alleged offences punishable under Sections 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 (Act No.67 of 1957) r/w 379 of the Indian Penal Code 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, the petitioner illegally excavated and transported $\frac{1}{4}$ unit of river sand in his bullock cart; and that when the respondent-police intercepted the said vehicle, the petitioner fled from the place of occurrence. Hence, the case.

4. The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution; and that the respondent-police registered the case only for statistical purpose. He further submitted that petitioner has permanent residence and deep roots in the Society and that he is ready to obey the condition, if any, imposed by this Court. Accordingly, he 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 the petitioner excavated and transported $\frac{1}{4}$ unit of river sand in his bullock Cart; and that the petitioner has no previous case. He further submitted that the investigation in this case is not yet completed. Accordingly, he prayed to dismiss this Criminal Original Petition.



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

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7. Considering the quantity of river sand allegedly excavated and transported by the petitioner and with a view to give an opportunity to the petitioner to reform himself, this Court grants 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, Thiruvaiyaru, Thanjavur District, within a period of 15 days from today, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with 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, 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;



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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 Jurisdictional Judicial Magistrate Court/Trial Court; and

(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Judge 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].

8. 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.

cp

TO

1 THE JUDICIAL MAGISTRATE, THIRUVAIYARU, THANJAVUR DISTRICT.



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

3 THE SUB INSPECTOR OF POLICE, BADALUR POLICE STATION,
THANJAVUR DISTRICT.

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

ORDER
IN

CRL OP(MD) No.23606 of 2023
Date :28/12/2023

RS/VR/SAR-(05.01.2024) 5P 5C
Madurai Bench of Madras High Court is issuing
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