



Crl.O.P.(MD) No.23613 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.23613 of 2023

1.Ilayaraja

2.Nandakumar

3.Siva @ Sivakumar

4.Suresh @ Sureshkumar

... Petitioners/ Accused Nos.1 to 4

Vs

State Represented by
The Sub Inspector of Police,
Budalur Police Station,
Thanjavur District.
(Crime No.439 of 2023)

... Respondent/Complainant

For Petitioners : 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 petitioners/A1 to A4 in Crime No.439 of 2023 on the file of the respondent-police.



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ORDER: The Court made the following order :-

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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/Accused Nos.1 to 4, apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 (Act No.67 of 1957) r/w Section 379 of the Indian Penal Code, 1860 (Act No.45 of 1860), in Crime No.439 of 2023 on the file of the respondent-Police.

3. The case of the prosecution is that on 15.12.2023, the petitioners illegally excavated and transported $\frac{1}{4}$ unit of river sand in bullock cart; that the respondent-police intercepted the said vehicle; and that at that time, the petitioners fled away from the place of occurrence. Hence, the case.

4. The learned counsel for the petitioners submitted that the petitioners have 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 petitioners have permanent residence and have deep roots in the Society and that they are ready to obey the condition, if any, imposed by this Court. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioners.



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5. The learned Government Advocate (Crl.Side) appearing for the respondent-police submitted that the petitioners excavated and transported ¼ unit of river sand in the bullock Cart; and that the petitioners 1, 2 and 4 have no previous case and the third petitioner has one previous case, which is similar to the present case. He further submitted that the investigation in this case is not yet completed. Accordingly, he prayed to dismiss this Criminal Original Petition.

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

7. Considering the quantity of river sand allegedly excavated and transported by the petitioners and with a view to give an opportunity to the petitioners to reform themselves, this Court grants an order of pre-arrest bail to the petitioners subject to the following conditions.

(i) The petitioners shall be released on bail in the event of their arrest or in the event of their 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) each with two sureties each, in which one shall be the blood related surety, for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District;



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(ii) The petitioners shall appear and sign before concerned Jurisdictional Magistrate, 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 petitioners shall make themselves available for interrogation by police as and when required;

(v) The petitioners 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/her from disclosing such facts to the Court or to any police officer;

(vi) The petitioners shall not 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 petitioners 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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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,
THIRUVAIYAR, THANJAVUR DISTRICT.

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

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

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

ORDER
IN
CRL OP(MD) No.23613 of 2023
Date :28/12/2023

SA/VR/SAR. /04.01.2024/5P/5C

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