



Crl.O.P.No.11763 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM

THE HON'BLE MR. JUSTICE **R.SAKTHIVEL**

Crl.O.P.No.11763 of 2024

Barathivel

S/o.Ramasamy

...Petitioner/Accused

Vs.

The Inspector of Police
Dusi Police Station
Tiruvannamalai District.
(Crime No.219 of 2024)

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 438 of Cr.P.C., 1973 (Act No.2 of 1974), praying to grant an order of pre-arrest bail to the petitioner/accused in Crime No.219 of 2024 on the file of the respondent police.

For Petitioner : Mr.C.Pushparaj

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed by the petitioner on 13.05.2024 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, apprehends the arrest at the hands of the respondent police for the alleged offences punishable under Sections 279 and 430 of the Indian Penal Code r/w Section 21 of the Mines & Minerals (Development & Regulation) Act, 1959, in Crime No.219 of 2024 on the file of the respondent police.

3.The case of the prosecution is that on 04.05.2024, when the respondent police were patrolling to prevent the theft of river sand, the police found that the petitioner illegally excavated and transported $\frac{1}{4}$ unit of river sand in a bullock cart without any valid permission. Hence the case.



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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 the petitioner has permanent residence and has 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 a Bullock Cart; and that the petitioner has no previous case similar to that of this case. Accordingly, he prayed to dismiss this Criminal Original Petition.

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

7.The prosecution case is that the petitioner illegally excavated and transported $\frac{1}{4}$ unit of river sand in a bullock cart without any valid license.



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8. Considering the quantity of river sand allegedly excavated and transported by the petitioner, the fact that the petitioner has deep roots in the society 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, Cheyyar, within a period of 15 days from today, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate, Cheyyar;

(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.

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Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes/No

dna/rsi



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R.SAKTHIVEL.J.,
dna/rsi

To

1. The Judicial Magistrate, Cheyyar.

2. The Inspector of Police
Dusi Police Station
Tiruvannamalai District.

3. The Public Prosecutor,
High Court of Madras.

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