



CrI.O.P.No.11824 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM

THE HON'BLE MR. JUSTICE R. SAKTHIVEL

CrI.O.P.No.11824 of 2024

1.Kabilan
2.Ramalingam
3.Kiruba

...Petitioners/Accused 2 to 4

Versus

The State represented by
The Inspector of Police,
Karuveppilankurichi Police Station,
Cuddalore District.
(Crime No.87 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 petitioners/A2 to A4 in Crime No.87 of 2024 on the file of the respondent police.

For Petitioners : Mr. P. Thirumalaivasan

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



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ORDER

This Criminal Original Petition has been filed by the petitioners on 15.05.2024 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 petitioners/A2 to A4, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 430 of IPC read with Section 21 (1) Mines and Minerals (Development and Regulation) Act 1957 in Crime No. 87 of 2024 on the file of the respondent police.

3. The case of the prosecution is that on 01.04.2024, when the respondent police patrolling to prevent the theft of river sand, the police found that the petitioners have illegally excavated and transported ½ unit of river sand by using JCB bearing Registration No. TN-61-3280 and by using Tractor Tipper bearing Registration No. TN-31-AL-1285 without any valid license or permission. Hence the case.



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4. The learned counsel for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution; and the respondent Police registered the case only for statistical purpose. He further submitted that the petitioners have permanent residence and deep roots in the Society and that they are ready to obey the conditions if any imposed by this Court. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioners.

5. The learned Government Advocate (Criminal Side) appearing for the respondent - Police submitted that the petitioners excavated and transported 1/2 unit of river sand by using JCB bearing Registration No. TN-61-3280 and by using Tractor Tipper bearing Registration No. TN-31-AL-1285 without any license or permission. He further submitted that the petitioners have 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.



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7. Prosecution's case is that the petitioners illegally excavated and transported $\frac{1}{2}$ unit of river sand using JCB bearing Registration No.TN-61-3280 and by using Tractor Tipper bearing Registration No. TN-31-AL-1285 without any license or permit.

8. Considering the facts and circumstances of the case, the nature of the offence, the quantity of river sand allegedly excavated and transported by the petitioners, the fact that the petitioners have deep roots in the society due to which there is less probability of absconding and the fact that there are no previous case against the petitioners and also 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 No.2, Virudhachlam, 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 each for a like sum of Rs.20,000/- (Rupees Twenty Thousand Only) to the satisfaction of the Judicial Magistrate



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No.2, Virudhachlam.

(ii) The petitioners 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 anyone of identity proofs to ensure their identity;

(iv) The petitioners shall make themselves available for interrogation by the 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 them from disclosing such facts to the Court or to any police officer;

(vi) The petitioners 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 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].

8. Accordingly, this Criminal Original Petition is allowed subject to



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the conditions stated supra.

17.05.2024

MSM

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**

To

1. The Judicial Magistrate No.II,
Virudhachlam.
2. The Inspector of Police,
Karuveppilankurichi Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court of Madras.

R. SAKTHIVEL, J

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