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Crl.O.P.No.11802 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.11802 of 2024

K.Mageshwaran
S/o.Kuppan

... Petitioner / A2

Versus

The State rep. by
The Inspector of Police,
Walajapet Police Station,
Ranipet District - 632 501,
Crime No.217 of 2024.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to release the petitioner on bail in the event of arrest in Crime No.217 of 2024 on the file of the respondent police.

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

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 apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 430 of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.217 of 2024 on the file of the respondent police.

3.The case of the prosecution is that on 01.05.2024, the petitioner along with others illegally excavated and transported 3/4 unit of soil (??? ???) in the trailer attached to the Tractor bearing Registration No.TN 73 AH 6918; that the respondent-police intercepted the said vehicle; and that at that time, the petitioner fled away from the scene. 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 the statistical purpose. He further submitted that petitioner is ready to obey the conditions, 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 3/4



unit of soil (??? ???) in the Tractor; and that the petitioner has no previous case similar to that of this 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. Prosecution's case is that the petitioner illegally excavated and transported $\frac{3}{4}$ unit of soil (??? ???) in Tractor bearing Registration No.TN-73-AH-6918 without any valid license or permit.

8. Considering the facts and circumstances of the case, the nature of the offence, the quantity of soil (??? ???) allegedly excavated and transported by the petitioner and the fact that there is no previous case against the petitioner and also with a view to give an opportunity 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 No.II, Walajapet, Ranipet District**, within a period of 15 days from today, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) along



with two sureties each for a like sum of Rs.10,000/- to the satisfaction of the

Judicial Magistrate No.II Court, Walajapet, Ranipet District;

(ii) The petitioner shall appear and sign before the **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 them 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 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 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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9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

16.05.2024

Index : Yes/No

Internet : Yes/No

Neutral citation : Yes/No

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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,
Judicial Magistrate Court No.II,
Walajapet, Ranipet District.
2. DO THROUGH:
The Chief Judicial Magistrate, Ranipet.
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
Walajapet Police Station
Ranipet District - 632 501.



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R.SAKTHIVEL, J.

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