



Crl.O.P.No.11827 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM

THE HON'BLE MR. JUSTICE R.SAKTHIVEL

Crl.O.P.No.11827 of 2024

1. Appu @ Sivabalan
S/o. Kannaiyan

2. Kamal @ Janakiraman
S/o. Panneerselvam

...Petitioners/Accused 1 and 2

Vs.

The State represented by
The Inspector of Police,
Kudavasal Police Station
Tiruvarur District.
(Crime No.139 of 2023)

...Respondent/Complainant

PRAYER:

Criminal Original Petition 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 in Crime No.139 of 2023 on the file of the respondent police.

For Petitioners : Mr.S.Sekar

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



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ORDER

This Criminal Original Petition has been filed by the petitioners 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 petitioners/Accused 1 and 2, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of Indian Penal Code, 1860 (Act No.45 of 1860) and 21(1) Mines and Minerals (Development & Regulation) Act in Crime No.139 of 2023 on the file of the respondent police.

3.The case of the prosecution is that, when the respondent police were patrolling, the police found that a Tractor bearing Registration No.TN-50-H-2918 was driven by the first petitioner carrying ½ unit of savudu sand from the river bed without having any valid license. 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 that 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 (Crl.Side) appearing for the respondent police submitted that the petitioners excavated and transported $\frac{1}{2}$ unit of savudu sand in a Tractor; and 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.

7. Prosecution's case is that the petitioner illegally excavated and transported $\frac{1}{2}$ unit of savudu sand in a tractor bearing Registration



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No.TN-50-H-2918 without any valid 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 have deep roots in the society due to which there is less probability of absconding and the fact that there are no previous cases 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 District Munsif-cum-Judicial Magistrate, Kudavasal, 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 for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Kudavasal;

(ii) The petitioners shall appear and sign before respondent Police, daily at 10.00 a.m., until further orders.



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(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 District Munsif cum 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 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 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].



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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

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.**



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To

1. The District Munsif-cum-Judicial Magistrate,
Kudavasal.
2. The Inspector of Police,
Kudavasal Police Station
Tiruvarur District.
3. The Public Prosecutor,
High Court of Madras.



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R.SAKTHIVEL.J.,

dna/rsi

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