



CRL OP(MD) No.4358 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/03/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.4358 of 2024

Marimuthu

... Petitioner/Sole Accused

Vs

The Inspector of Police,
Thirukkattupalli Police Station,
Thanjavur District.
Crime No.128 of 2024.

... Respondent/Complainant

For Petitioner : Mr.J.Vivek,
Advocate.

For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.128 of 2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner / Sole Accused, who was arrested and remanded to judicial custody on 07.03.2024 for the offence punishable under Section 379 of IPC r/w



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Section 21(1) of Mines & Minerals (Development & Regulation Act), 1957, in Crime

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No.128 of 2024 on the file of the respondent Police, seeks bail.

2. It is the case of the prosecution that when the defacto complainant was in routine patrol duty, he intercepted the petitioner and found that three bags of river sand was illegally transported by the petitioner using an un-numbered two wheeler.

3.The learned counsel appearing for the petitioner would submit petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. However, on instruction, he would further submit that the petitioner is ready to deposit Rs.5,000/- to the District Mineral Foundation Trust, without prejudice to his rights.

4.The learned Additional Public Prosecutor would submit that investigation is pending. Further, he would submit that if the person is caught with illegal sand in the mining area, he has to be directed to deposit the conditional amount to the credit of Crime number. However, in view of formation of District Mineral Foundation Trust in each District, the amount may be deposited to the credit of the said Trust for rehabilitation in the areas affected by illegal sand mining. Further, no previous case is pending against the petitioner.



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5. In view of the rehabilitation undertaken by the State Government under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities and also considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner is directed to make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions. This amount so deposited shall be utilised by the Trust for rehabilitation works.

6. It is made clear that the deposit of the amount by the petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of bail.

7. Considering the facts and circumstances of the case and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner.



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8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, and on further condition that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) through demand draft to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

(c) the petitioner shall report before the respondent police daily at 10.30 a.m, until further orders;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;



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(e)the petitioner shall not abscond either during investigation or trial;

(f)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
20/03/2024

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20/03/2024
Sub-Assistant Registrar(AD II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

INDU

TO

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



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- 3 THE INSPECTOR OF POLICE
THIRUKATTUPALLI POLICE STATION,
THANJAVUR DISTRICT.
- 4 THE OFFICER INCHARGE,
SUB JAIL, THANJAVUR.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:
THE CHAIRMAN/DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR.

ORDER
IN
CRL OP(MD) No.4358 of 2024
Date :20/03/2024

SS/SAR- /20/03/2024/6P/7C

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